

**Office of State Tax Commissioner**  
**Cory Fong, Tax Commissioner**

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# **47th Biennial Report**

**For the Biennial Period of  
July 1, 2003 through June 30, 2005**



**OFFICE OF STATE TAX COMMISSIONER**  
STATE OF NORTH DAKOTA

CORY FONG  
TAX COMMISSIONER

December 1, 2005

To: The Honorable John Hoeven Governor  
The Honorable Al Jaeger, Secretary of State

It is with great pleasure that I submit for your consideration the Forty-Seventh Biennial Report of the Tax Commissioner.

The report covers the operations of the Office of State Tax Commissioner for the period July 1, 2003 through June 30, 2005, and is submitted pursuant to North Dakota Century Code §§ 55-06-04 and 57-01-02.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cory Fong", is written over a light blue rectangular background.

CORY FONG  
TAX COMMISSIONER

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# **The Office of State Tax Commissioner**

## ***Accountability and Customer Service Initiatives***

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### **History of the Office of State Tax Commissioner**

The Office of State Tax Commissioner has been a separate agency since 1912. Prior to 1912, the State Auditor handled some of the functions now performed by the Tax Commissioner. From 1912 to 1919, the Governor appointed a three-member nonpartisan Tax Commission to administer the tax laws of the state. As a result of a special election in 1919, the three-person tax commission was changed to a single Tax Commissioner whom the Governor was given the authority to appoint with consent of the Senate. A constitutional amendment adopted June 28, 1938 changed the Tax Commissioner post to an elective office with a term of four years. The measure also stipulated that the Tax Commissioner should be elected on a no-party ballot and that the first Commissioner would not be elected until the 1940 General Election. In 1987 the Tax Commissioner was removed from the no-party ballot. Of all 50 states, North Dakota is one of only three states in which the Tax Commissioner is elected.

Even though the legislation that created the commission allowed hiring a secretary, the Tax Commission budget was insufficient to support the position. The first department staff member was hired in 1913 and by 1928 the Department had grown to 12 employees. The Tax Department continued to grow as the state's population increased, as new tax types were added, as tax laws became more complex, and as new services were provided. By 1995 the number of employees peaked at 157.

In recent years, staff numbers have been reduced through attrition, through streamlining duties, and by finding efficiencies within the department as well as through effective utilization of technology. In 1995 the number of permanent positions was at its all-time high of 157 employees. During the 2003-05 biennium, the Office of State Tax Commissioner was authorized 137 permanent staff members – a reduction of 20 positions from the 1995 peak.

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### **The Office of State Tax Commissioner Accountability and Customer Service Initiatives**

The Office of State Tax Commissioner is committed to providing prompt, accurate and courteous service while promoting compliance with the tax laws of North Dakota. The Tax Department is committed to improving customer service and increasing productivity with an eye on keeping costs to a minimum. Several projects and technology-related initiatives undertaken by the Tax Department have helped the department continue to improve customer service. The following list identifies the department's accomplishments during the 2003-05 biennium:

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### **Technology Initiatives to Improve Productivity and Enhance Service**

Providing exceptional customer service is one of the major goals of the Office of State Tax Commissioner. Through increased use of technology, the department has been transformed into a more productive and customer service-driven agency. During the 2003-2005 biennium, several technology-related initiatives were implemented:

- Continued to add forms to the Electronic Document Management System (EDMS) processing system to improve form processing; reduce or eliminate manual data entry; reduce the need for paper storage and physical filing space; and process tax returns faster.
  - Tax types include: Individual Income Tax; Income Tax Withholding; Sales Tax; Restaurant & Lodging Tax; Estimated Payments for Accounts Receivable (Corporation, Individual and Fiduciary); and Withholding W-2 Transmittals.
- Technological tools also enable the Tax Department to:
  - Eliminate the second shift for the first time during the 2003 processing season.
  - Reduce data entry staff by 2 FTE through attrition and staff transfer.
  - Complete Individual Income Tax processing before May 31 rather than the traditional June 30.

- Create up-front edits in the automated data capture system for Individual Income Tax returns thus reducing the number of audit worksheets by 50% since 2000.
- Programmatically provide the ability of mainframe generated documents to be stored in the FileNet systems without manual intervention. This saves about 1,500 employee-hours per year by eliminating the need to scan and identify the document for EDMS.
- Process over 542,000 documents through the EDMS, many of which consisted of multiple pages, during the timeframe of January 2004 – July 2004. This number of documents is within 100,000 of the total number processed during all of 2003.
- Continue to add web-based tax forms as “fill-and-print” documents so that taxpayers have the option to download the form, enter the data, print out the form, and mail to the Tax Department.
- Upgrade the Motor Fuel Tax E-filing service for all licensed motor fuel dealers to file their schedules of gallons received and dispersed.
- Upgrade the Sales Tax WebFile service for all sales tax permit holders to file their sales and use tax return.
- Provide additional electronic filing opportunities to income tax filers through the free online tax preparation and e-filing services via the federal and state Free File Alliance.
- Reallocate IT staff to the Fed-State individual income tax electronic filing system saving the Tax Department in programming costs to a third party. In addition, internal programs were written to perform compliance work on e-filed returns.
- Combine the Withholding Tax and Sales Tax registration form resulting in a simplified registration process for taxpayers.
- Provide taxpayers with the option to make electronic payments via ACH Debits to pay their delinquent tax liability.

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## **Customer Service Initiatives**

One of the Office of State Tax Commissioner’s top priorities continues to be focused on customer service. During the 2003-05 biennium, each division within the Tax Department pursued various customer service-related projects, such as:

- Conducting various seminars and workshops regarding North Dakota’s taxes.
- Designing new forms and redesigning old forms.
- Working with other state agencies to assist taxpayers in reporting taxes.
- Assuming administration of new taxes.
- Implementing changes for tax laws and local taxes.
- Developing new programming and electronic filing for taxpayers to use when reporting taxes.
- Updating manuals, forms, tax return processing, and programs.
- Providing taxpayer assistance.

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## **Processing Team**

A Processing Team, consisting of members directly involved in the processing of Individual Income Tax returns, reviews the past season’s process to identify and implement improvements for the next season and identify goals. The combination of the processing goals, scanning and imaging system, and help desk resulted in taxpayers receiving exceptional customer service through faster and more accurate processing of tax returns and quicker payment of refunds.

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## **Tax Amnesty Program**

The Tax Department conducted a Tax Amnesty Program from October 1, 2003 through January 31, 2004. Tax Amnesty included all state taxes and local option taxes administered by the Office of State Tax Commissioner. The program also included tax liabilities that had been previously billed by the Tax Department, nonfiled taxes, and underreported taxes where the original return was due before July 1, 2003.

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## **Conversion of Payroll System**

Converted the Department’s payroll to the new state-wide accounting system (PeopleSoft) and will continue to implement the various modules as they are ready.

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## **Miscellaneous**

- Created a new unit to coordinate and manage a nexus discovery program for Income and Sales Taxes.

# **Powers and Duties of the Tax Commissioner**

1. Shall perform all the duties with which he/she is charged.
2. Shall exercise general supervision over all assessors of general property or other taxes, township, county, and city boards of equalization, and all other assessing officers in the performance of their duties. All assessments of property shall be made relatively just and equal in compliance with the laws of this state.
3. Shall direct actions and prosecutions to enforce the laws, penalties and punishments of persons for failure to comply with the provisions of tax law. The Tax Commissioner shall cause complaints to be made against officers for neglect or refusal to comply with the law, and generally shall enforce all tax proceedings and revenue laws of the state in the proper court.
4. May require county state's attorneys to assist in the commencement and prosecution for the violation of any tax laws.
5. May require township, city, county and other public officers to report information regarding the assessment and collection of property and other taxes, receipts for taxes and other sources, the expenditure of public funds and other information in the administration of tax laws in a form that he/she may prescribe.
6. May summon witnesses to appear, give testimony, produce books, records, papers and documents relating to any matter which he/she or the state board of equalization may have authority to investigate or determine. The Tax Commissioner may cause the depositions to be taken like depositions of witnesses are taken in civil actions in the district courts.
7. May require a reassessment of property in any county to be made in accordance with N.D.C.C. ch. 57-14 whenever deemed necessary, or may require county auditors to place on the assessment rolls property which may be discovered and which has not been taxed according to law.
8. Shall examine all cases where evasions or violations of the laws of assessments and taxation are alleged, complained of, or discovered, and shall ascertain if existing laws are defective or are administered improperly or negligently.
9. Shall submit to the governor and the office of management and budget as prescribed by 54-06-04 the biennial report of the commissioner and the state board of equalization.
10. Shall visit other states and confer with taxing officials and attend tax or other economic conferences or conventions, in person or by his/her authorized agent.
11. Shall certify all levies, assessments, equalization, or valuations made by him/her or the state board of equalization, not more than thirty days after they have been made, or at periods otherwise provided by the law.
12. Shall have the power to execute reciprocal agreements with the appropriate officials of any other state. These agreements may waive all or any part of the tax requirements imposed by this state on gasoline or other fuels in the state of North Dakota, when the tax has been paid to the other state. The officials of the other state must grant the equivalent privileges with respect to gasoline or other fuels used in that state when the tax has been paid to the state of North Dakota.
13. May maintain an accounting system which includes a special category of accounts, designated as noncurrent accounts. The noncurrent accounts shall be the accounts which are uncollectible as a matter of law or those accounts where all reasonable collection efforts over a period of six years have produced no results. After examination by the state auditor, and upon his/her recommendation for cause, specific accounts may be removed by the commissioner from noncurrent status and all records pertaining to it destroyed.
14. May waive, upon a showing of good cause, any and all tax due. A lien must have been filed against the debtor's property and the attorney general must approve the waiver. Further, a debtor's individual income tax liability may be reduced based upon a federal offer in compromise.
15. May allow a taxpayer to pay a tax liability to the state electronically no later than the date the payment is required by law to be made.
16. May participate in the treasury offset program administered by the United States department of treasury as prescribed by federal law and regulation. An amount equal to the amount of fees for participation in this program and any repayment of refunds erroneously received is appropriated as a standing and continuing appropriation to the tax commissioner for payment of fees due under this program and any required repayments.

*Specific duties assigned to the Office of State Tax Commissioner are set out in N.D.C.C. Title 57, and the general powers and duties in N.D.C.C. § 57-01-02.*



# The North Dakota Office of State Tax Commissioner

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## Mission Statement

The mission of the Office of State Tax Commissioner is to fairly and effectively administer the tax laws of North Dakota.

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## Vision Statement

The vision of the Office of State Tax Commissioner is to instill the highest degree of public confidence in our integrity and reliability by providing prompt, accurate and courteous service while promoting compliance with the tax laws of North Dakota.

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## Guiding Principles

### **We treat our customers as we would want to be treated.**

Customer service comes first. The public, other government officials and our coworkers are our customers. Conduct business in a courteous, dependable and professional manner. Anticipate the unexpressed needs of our customers.

### **We extend cooperation and assistance to fellow public servants.**

Be consistent and accountable in our relationships with legislators, government officials and government personnel. Strive to earn respect for ourselves and elevate the public perception of all state employees.

### **We uphold the Taxpayer Bill of Rights.**

Recognize the rights of taxpayers. Provide an equal and meaningful opportunity for taxpayers to be heard. Educate taxpayers on their responsibilities and rights under North Dakota tax law.

### **We make wise and prudent use of all resources.**

Take seriously the responsibility the citizens of North Dakota have given us. Improve service through the effective use of technology and other resources.

### **We recognize employees are our biggest asset.**

Encourage personal and professional growth. Recruit and select well qualified employees based on high standards. Recognize the achievements of employees.

### **We recognize each individual's contribution to the team.**

Explore and implement leadership styles that encourage teamwork. Foster a work climate which builds on team strengths while encouraging individual initiative. Acknowledge all coworkers as members of the same team.

### **We value those with whom we work.**

Communicate with our coworkers in an open, honest and courteous manner. Respect our differences

# Functions and Responsibilities of the Office of State Tax Commissioner's Divisions

The Office of State Tax Commissioner comprises six separate divisions. The Commissioner's Division is the administrative nucleus of the department. The Legal Division provides legal advice and counsel to the department and to the State Board of Equalization and conducts field inspections and fraud investigations. The Fiscal Management Division performs accounting functions, provides staff services and collects delinquent taxes. The Operations Division is responsible for processing tax returns, mail processing, central records, procurement, as well as leading the department's technology efforts. The Income, Sales and Special Taxes Division, and Property Tax Division administer different state taxes under the direction of the Tax Commissioner. The following summaries provide more detailed explanations of the functions and operations of the Office of State Tax Commissioner's divisions.

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## Commissioner's Division

The Commissioner's Division has ultimate responsibility for the general administration of the department. It also serves as the department's primary research center, manages its personnel functions, and conducts studies as assigned by the commissioner on tax-related matters.

## Tax Commissioner

The Tax Commissioner is the chief administrator of the department and final arbiter of its policies. The commissioner serves on several administrative boards related to the Office of State Tax Commissioner.

As secretary to the State Board of Equalization, which certifies tax assessments for public utilities whose properties lie within several taxing districts, the commissioner is responsible for determining the tentative valuation of those properties. The commissioner also oversees regular studies of real estate assessments done by the Office of State Tax Commissioner, studies which the State Board of Equalization may use in equalizing property tax assessments between counties and taxing districts.

The Tax Commissioner is a voting member of the Multistate Tax Commission. This organization through the cooperation of its member states, enhances the ability of state revenue departments to enforce compliance with tax laws applying to multi-state businesses.

## Deputy Commissioner

The Deputy Commissioner assists the Commissioner in determining department administrative policy. The deputy supervises the development and implementation of effective personnel and fiscal management; facilitates management planning to determine current and future staffing needs; and serves as the division director for research, human resources, and communication. The deputy leads a department-wide effort to provide clear, concise and accurate information to all taxpayers through publications and news releases; serves as the commissioner's lead person in assuring good customer service; and is responsible for pursuing and implementing technology-related projects that enhance service and increase efficiency. The Deputy Commissioner also has an oversight responsibility for accounting, budgeting, training, and salary administration.

## Research & Statistics Section

The Research and Statistics Section is involved in the preparation of revenue forecasts and other fiscal analyses. When requested by the Legislative Council, the section prepares estimates and projections of fiscal implications of all proposed tax legislation dealing with state revenues. The section also estimates the current and future fiscal impact of all administrative rulings proposed by the Tax Commissioner, maintains files of legislation affecting state tax revenue, and develops and maintains statistics on state tax. In addition, the Research and Statistics Section prepares and publishes the biennial report of the Tax Commissioner, statistical reports, and comparative analyses of tax collections.

The Office of State Tax Commissioner is responsible for preparing fiscal notes on proposals



that affect various tax revenues. The responsibility of those fiscal note responses rests with the Research and Statistics Section. In addition to responses which must be prepared during the Legislative Session, the department prepares fiscal note information for the Interim Committee on Finance and Taxation and responds to requests for fiscal information from individual legislators, businesses, and other government agencies.

### **Human Resources Section**

Also within the Commissioner's Division is the Human Resources section. This section is responsible for recruitment of new employees and compliance with Equal Employment Opportunity regulations. Human Resources reviews position classifications, maintains employee records, administers the department's wage and salary plan and is responsible for hiring temporary employees during the tax processing season. Risk management, maintaining the Department's employee handbook and the Policies and Procedures manual each have a major role in the administration of the Department's performance management plan. And, these are additional duties that are carried out by the Human Resources Section.

### **Communications Section**

The Communications area develops and maintains liaison with the public and the media providing information about the department's policies, programs, actions, services, and related tax matters. This section designs forms and publications for the Office of State Tax Commissioner and provides assistance with the management of the department's web site.

During the 2003-2005 biennium the Commissioner's Division included eight full-time positions which include the Tax Commissioner and Deputy Commissioner; a human resources officer, a research analyst, a public information specialist, an administrative assistant, and two office assistants.

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## **Operations Division**

The Operations Division includes five sections: Central Records, Data Entry, Information Services, Mail Center, and Procurement.

The Operations Division is responsible for procurement, project management and business process re-engineering, mail processing, central

records and the electronic document management repository, front-end tax processing including data capture and entry, and information technology management and development functions.

The Information Technology and Business Process Re-engineering staffs are responsible for leading the Tax Department's technology efforts through increased oversight and guidance. Responsibilities include the management, security, and efficient processing of the department's various tax applications. Information technology staff support all Tax Department personal computers, servers, scanners, and Local Area Network; evaluate all hardware, software, and programming requests; retain and maintain computer system documentation; design, test, and implement new systems; control access to federally provided data; perform business and systems analysis; and provides Business Process Re-engineering services. In addition, staff coordinate and manage electronic filing, scanning, automated data capture and 2D Bar code initiatives, and maintain the Tax Department's web site.

The Mail Center, Central Records, Procurement and Data Entry staffs provide support services to the department. The Mail Center receives and fills orders for tax forms and booklets as well as processes all incoming and outgoing mail. Central Records is responsible for the safe and secure storage and retrieval of tax returns and related documents. Central Records staff is also responsible for the management of the Electronic Document Management System (EDMS). The Procurement function of this division uses technology to enhance the procurement process. The data capture staff keys or verifies data from various tax returns and tax related documents.

In the 2003-2005 biennium, the Operations Division included 25 full-time positions. Those positions include the director, one administrative assistant, one purchasing agent, five data processing coordinators, four mail center staff, five data entry staff, six central records staff, and three vacant positions.

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## **Legal Division**

The Legal Division provides legal advice and counsel to all divisions within the Office of State Tax Commissioner and the State Board of Equalization. The division's attorneys respond to inquiries from the Tax Commissioner, Tax Department staff,

legislators, state and local officials, and citizens and prepare opinions on tax questions. They also review and draft department administrative rules under the provisions of the Administrative Agencies Practice Act, coordinate the approval of those rules by the Attorney General, and file them with the Legislative Council.

During each North Dakota legislative session, the Legal Division develops and drafts bills for the Tax Commissioner to be presented to the Legislature and participates in the legislative hearing process. At the end of the legislative session, the division's attorneys interpret new or amended laws to aid the department in implementing those laws, and assist the Tax Commissioner in issuing rules, regulations or policies regarding them.

The Legal Division conducts formal hearings before the Tax Commissioner or his designated representative and represents the Office of State Tax Commissioner and the State Board of Equalization in litigation brought by or against either the department or the board.

During the 2003-2005 biennium the Legal Division included four full-time positions: three attorneys and one legal assistant.

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## **Fiscal Management Division**

The Fiscal Management Division of the Office of State Tax Commissioner consists of two sections: Accounting and Accounts Receivable.

### **Accounting Section**

Acting as the department's center for business transactions, the Accounting Section prepares and maintains the accounting records of total revenue received, expenditures for payroll and accounts payable, and tax refunds. This section maintains fixed asset inventory records and determines level of insurance coverage.

The Accounting section prepares the Office of State Tax Commissioner's executive budget request and assists with biennial revenue estimates. This section also prepares the department's internal budget, analyzes and forecasts expenditures, and monitors and reports on budget performance. This section prepares reports and financial statements for management information and auditing purposes.

The Accounting section coordinates the annual audits by the State Auditor's office. All records maintained by the Department are subject to state audit.

### **Accounts Receivable Section**

The Accounts Receivable Section is responsible for collecting delinquent taxes on accounts referred by the division responsible for administering the tax. Established procedures used for the collection of delinquent taxes include telephone and written communication with taxpayers and the mailing of final notices requesting payment of taxes.

If necessary, this section may resort to civil or criminal legal action. It is the policy of the Accounts Receivable section to initiate legal action only in those cases in which the taxpayer fails to respond to collection attempts. Taxpayers are always given ample notice and opportunity to comply with requests for payment of taxes.

In the 2003-2005 biennium, the Fiscal Management Division included 15 full-time positions. Those positions include the Chief Fiscal Officer, one accounting/budget specialist, one collections supervisor, seven collection officers, four accountant technicians, and one office assistant.

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## **Income, Sales and Special Taxes Division**

The Income, Sales, and Special Taxes Division includes six sections: Corporate Income Tax, Individual Income Tax, Sales and Withholding Taxes, Motor Fuels and Special Taxes, Oil and Gas Taxes, and Field Audit.

These sections maximize taxpayer compliance with North Dakota tax laws, receive and process tax returns and perform audit reviews. They use various investigative means to identify non-filers, investigate reasons for not filing, and enforce filing requirements. Each section publicizes tax rules and regulations, issues administrative rulings, recommends tax law changes, designs and revises tax forms and instructions, and monitors litigation.

There is continued emphasis on providing taxpayer assistance over the telephone, in person over-the-counter, and through correspondence. All sections continue to provide speakers for tax clinics, tax preparation and other workshops.

## **Corporate Income Tax**

The Corporate Income Tax section administers the state's income tax imposed on corporations doing business in this state. This section also administers the tax on financial institutions, with a portion of this tax going directly to the counties.

On average, 10,900 corporate income tax returns and 300 financial institution tax returns are processed each year. Of these, an average of 1,000 report refund claims. 60% of the section's time involves processing and audit activities. Over 1,000 hours of taxpayer assistance were provided in this past biennium.

The section's primary emphasis involves the conducting of office and field audit reviews. In order to provide as much audit coverage as possible, the Corporate Income Tax section relies, in part, on the Multistate Tax Commission's cooperative program to perform field audits for this state. In 2003-05 biennium, the Section conducted 616 corporate income tax audits, resulting in more than \$24.7 million in additional assessments.

## **Individual Income Tax**

The Individual Income Tax section administers the state's income tax law for individuals, estates and trusts, partnerships, and small businesses, while providing taxpayer assistance. The section provides oversight for the computerized tax processing system that enables both electronic and paper filing of tax returns, while maintaining a secure and confidential records' processing system which insures all returns are posed in a timely and accurate manner. In addition, the section provides newsletters, guidelines, rules and regulations, implements various compliance programs to identify non-filing and non-complying taxpayers, and performs audit examinations.

The compliance and audit activities conducted by this section during the 2003-05 biennium totaled more than \$12 million in additional assessments for individual income tax.

## **Sales & Withholding Taxes**

The principal function of the Sales and Withholding Section is to administer state and local sales taxes and income tax withholding.

Responsibilities of this section include the review and approval of applications to register for

income tax withholding and sales tax permits; assure all sales tax returns and income tax withholding returns received are accurate and timely; conduct hearings and negotiate settlements; administer exemption application and compliance programs; issue administrative tax rulings; provide newsletters, guidelines, rules and regulations for retailers and employers and review compliance with sales tax and income tax withholding regulations. This section implements various projects identifying non-filing or non-complying taxpayers through the following programs: field visitation, special events project; nexus or discovery project; voluntary disclosure program; Canadian customs review project; contractors' clearance review project; and letters of good standing program.

The compliance section also administers all local sales and use taxes, local restaurant and lodging taxes, motor vehicle excise tax, cigarette and tobacco taxes, city lodging and restaurant taxes, music and composition tax, and processes Canadian refunds.

## **Motor Fuels and Special Taxes**

### ***Motor Fuels***

The Motor Fuels and Special Taxes Section is responsible for administering, collecting and auditing motor vehicle fuel, special fuel, and aviation fuel taxes. This section also administers the motor vehicle fuel and aviation fuel tax refund programs.

North Dakota imposes a motor vehicle fuel tax on sales of gasoline and gasohol. Refunds are granted to consumers who used the fuel in nonlicensed equipment for agricultural, railroad, or industrial purposes.

Refunds are also granted to political subdivisions using the fuel for construction, reconstruction, and maintenance of roads and highways, and on fuel used in miscellaneous nonlicensed equipment.

The Motor Fuels and Special Taxes Section administers a special fuel tax on diesel fuels, heating fuels, kerosene, and propane, as well as aviation gasoline and jet fuel.

Other functions of the section include interpreting tax laws and issuing administrative rules; reviewing, issuing and revoking licenses and permits; and responding to taxpayer questions.

### ***Estate Tax***

The Estate Tax Section supervises North Dakota's tax on property transferred upon death. North Dakota's estate tax is entirely contingent on credits which the federal government allows on federal estate taxes. The North Dakota law requires the attorney for the estate to give the Estate Tax Section a copy of the federal estate tax return, which is verified to assure that the federal credit is computed correctly. The section maintains estate tax records, and informs the public about estate tax laws, policies and procedures.

### ***Alcoholic Beverages Tax***

The North Dakota Legislature authorized a transfer in responsibility for the alcoholic beverage control laws to the State Tax Commissioner on July 1, 2001. The Office of State Treasurer formerly held this responsibility.

As a result of this change in responsibilities, the Office of State Tax Commissioner is responsible for the enforcement of the alcoholic beverage control laws, and the administration of the wholesale alcoholic beverage taxes. The oversight for this section has been assigned to the fuels tax supervisor.

The business section issues licenses to wholesale businesses selling alcoholic beverages, registers brand product information, receives and processes tax returns, performs audits, publicizes tax rules and regulations, issues administrative rulings, and provides taxpayer assistance.

### ***Oil and Gas Taxes***

The Oil and Gas Taxes Section administers oil and gas gross production taxes and oil extraction tax. This section's responsibilities include the assurance that all tax returns received are timely and accurate; provide newsletters, guidelines, rules and regulations; and perform compliance reviews and audits of oil and gas companies conducting business in this state. During the 2003-2005 biennium, underpayments of tax, penalty and interest identified on returns, through compliance reviews, and audits resulted in assessments totaling \$1,956,033. Total enforcement action collections for the biennium were \$3.08 million; which includes compliance and audit collection, and additional tax, penalty and interest collections from billings on processed tax reports.

### ***Field Audit***

The primary focus is on customer service and the reduction of protested audits. The Field Audit section continues to improve existing audit systems, audit programs and approaches that apply to sales and use taxes, fuel taxes, cigarette and tobacco taxes, and wholesale alcohol beverage taxes. Audit survey results continue to reflect the fact that the Field Audit staff strive to provide quality taxpayer service and reflect professionalism and accuracy in their work product. In addition to their audit workload, they continue to participate in special projects that assist in taxpayer education and compliance of the tax laws.

In the accomplishment of their audit functions, the Field Audit section continues to work cooperatively in the administration and audit of both state and city sales and use taxes, as represented by their efforts to audit these taxes jointly.

During the 2003 -2005 biennium 733 audits were conducted and \$6,143,759 was collected.

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## **Property Taxes Division**

The property tax is an important source of revenue for financing school districts, and county, city and township government. While local government units have the responsibility of assessing and taxing all classes of real property, the Office of State Tax Commissioner provides assistance to local government units to assure that the property tax is administered equitably throughout the state.

The Property Tax Division, under the direction of the State Supervisor of Assessments, works with local government to maintain equalization of property assessments among the various counties in North Dakota. To assure property tax equalization, the division performs annual ratio studies, which compare true and full value of real estate with the sale price of properties which have been sold. If significant assessment variations exist among counties, the State Board of Equalization takes steps to equalize those assessments. In addition, personnel from the division investigate individual assessments for the board and make detailed appraisals of complex properties when the owners of those properties have appeared before the State Board of Equalization requesting a review.

The Homestead Credit and Renter Refund Program is also administered by the Property



Tax Division. Under this state-funded program, qualifying senior citizens and disabled persons receive a reduction of their property tax assessment or a partial refund of annual rent paid. The total amount of revenue lost to the local taxing districts by this reduction is reimbursed to them from the state general fund. Credits are allowed not only against real property tax assessments but against special assessments as well. Credits allowed for special assessments become a lien on the property. The division has the responsibility for monitoring the liens and for providing a release whenever the liens are satisfied.

Assisting the Tax Commissioner and the State Board of Equalization in making valuations of utility property for property tax purposes is the Utilities Tax Section. Most real property is assessed by local government. However, the property of railroads, airlines, public utilities such as electric and gas companies, and pipeline companies is assessed at the state level. The Tax Commissioner, utilizing appraisals by the Utilities Tax Section, makes tentative valuations and the State Board of Equalization sets the final assessed valuations. The section then certifies to each county the value placed on the railroad, utility, and pipeline property located within that county, and the tax is administered and collected by the local governments. The Utilities Tax Section collects the air transportation company tax and certifies the amounts to be distributed to the cities or municipal airport authorities where the air transportation companies made regularly scheduled landings.

The State Supervisor of Assessments has the statutory responsibility to certify that assessors and county directors of tax equalization have met minimum requirements. The certification process is administered by the Property Tax Division. The division also conducts seminars for local government officials to improve administration of property tax and holds property tax appraisal schools for assessors and other local tax officials. Staff interprets tax statutes, reviews and analyzes legal questions, and provides information concerning changes in law or policy affecting property taxation. The division acts as the liaison between local property tax administrators and state officials. While it does not directly administer property tax, the division functions as a statistical and information resource center and facilitates communications among all

levels of government to maintain efficiency, promote uniformity and achieve equalization within the property tax system. Statutes concerning budgetary control of local taxing districts requires the Property Tax Division to develop maximum levy worksheets for use by the county auditors in determining the total dollar levy allowed each taxing district. Workshops conducted by division personnel provide county auditors with firsthand knowledge of the procedures that they must use.

The Utilities Tax Section administers and collects the telecommunication gross receipts tax imposed on the retail sale of two-way telecommunications services. A standing appropriation of \$8.4 million is distributed annually to the political subdivisions in lieu of property taxes on telecommunications property.

The Utilities Tax Section calculates and certifies the gross receipts tax on rural electric cooperatives to the counties. The counties collect the tax and distribute it to the political subdivisions where the cooperatives' lines are located.

Another responsibility of the Utilities Tax Section is administering the state severance tax on coal, the coal conversion privilege tax on electrical generating plants and coal gasification plants, and the tax on cooperative-owned transmission lines of 230 kilovolts or larger. The section audits reports of collections of these energy-related taxes. The Utilities Tax Section also prepares reports on the collection of these taxes and information for revenue distribution by the State Treasurer's Office, which is responsible for allocating revenue from these taxes among the state, the counties where the mines, plants and transmission lines are located, and a permanent Coal Development Trust Fund.

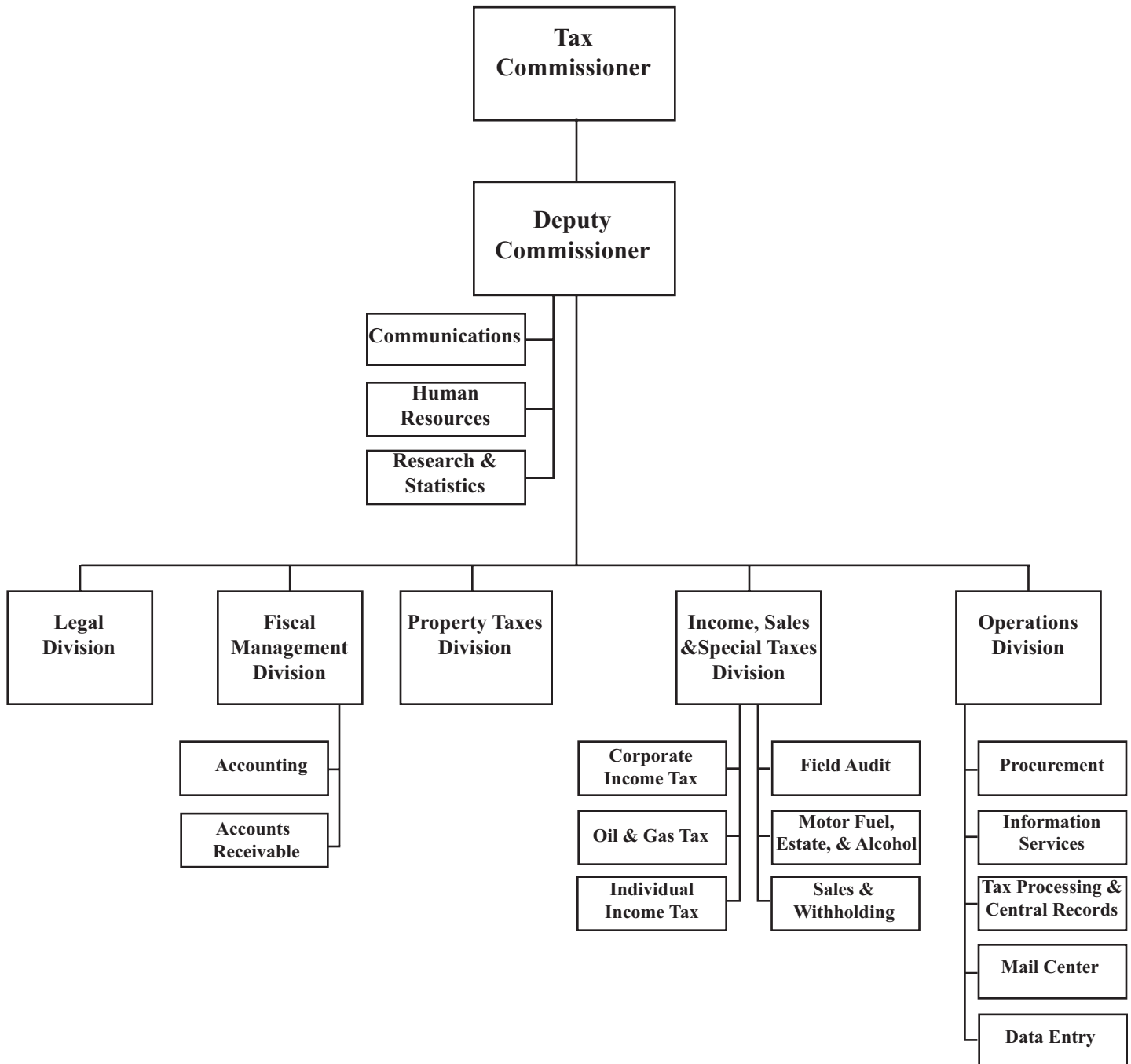
The Property Tax Division annually certifies to county directors of tax equalization in each of the state's 53 counties the average true and full agricultural value of farmland, as determined by North Dakota State University. It is this value on which the counties base their assessments of agricultural property.

The staff of the Property Tax Division in the 2003-2005 biennium included five full-time positions: the state supervisor of assessments, two property tax specialists, one audit technician, and one office assistant.

# Office of State Tax Commissioner

## Organizational Chart

June 2005





# Future Directions

Legislation enacted during the 2005 Legislative Assembly impacts the administration of some of North Dakota's major taxes during the 2005-07 biennium and in the years beyond. The following summarizes significant tax legislation enacted by the 2005 Legislature.

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## Integrated Tax System

- The 2005 Legislature authorized the Tax Department to solicit proposals for a COTS (Commercial-Off-The-Shelf) integrated tax system to replace the department's outdated mainframe systems. Many of the old tax systems were developed in the 1960's and 1970's and then converted in the mid-1980's to the system used today. These systems were converted from a mainframe flat file system without the advantages of totally re-developing the tax application. While these have "worked," they have outlived their useful life and are difficult and expensive to maintain and use. The project will replace 255 COBOL programs and 489 natural programs with one integrated system. This major undertaking will be researched, awarded, and completed primarily within the 2005-07 biennium. The goals of the integrated tax system project include: improving customer service, increasing revenue for the state, reducing processing time, issuing refunds more quickly, and making the overall tax system more efficient.

under I.R.C. Section 199 as well as the amount of extraterritorial income excluded in federal taxable income.

- Effective for tax years beginning with 2007, the top corporation income tax rate is reduced from 7% to 6.5%.
- A new provision was enacted requiring the Lottery Division of the North Dakota Attorney General's Office to withhold income tax at the rate of 5.54% from lottery winnings totaling more than \$5,000.
- Changes were made to the seed capital and venture capital programs, and the small business and agricultural processing investment tax credit programs with the intent of clarifying the target goals of each program and delineating the parameters of each program.
- A new provision was added requiring a North Dakota partnership, S corporation, trust, or limited liability company to withhold income tax from distributions to owners who are nonresidents.
- Bonus payments to resident members of an active duty component of the U.S. Armed Forces are exempt from North Dakota income tax.
- Legislation was enacted creating two new income tax credits for wholesalers and retailers of biodiesel fuel

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## Income Taxes

- A provision was enacted that enables the tax commissioner to participate in the Treasury Offset Program administered by the Financial Management Services (FMS), a bureau of the U.S. Treasury. Under this program, the Office of State Tax Commissioner may submit past-due state income tax debts to FMS to be offset by the debtor's federal income tax refund.
- A change was made in corporation income tax law that requires the adding back of the amount of domestic activities income deducted

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## Sales Tax

- The 2003 Legislature adopted the Streamlined Sales and Use Tax Agreement and modified the sales tax law to be in compliance with key aspects of the Agreement. Generally, the purpose of the Streamlined Sales and Use Tax Agreement is to reduce the burden and complexity for both Main Street businesses and remote sellers by providing for a cooperative, simplified system for the application and administration of sales and use taxes throughout the country. The 2005 Legislature passed some modifications to the original agreement and changed the effective date to October 2005 enabling North Dakota to be a full participating member of the Streamlined Sales and Use Tax Agreement.
- The 2005 Legislature granted sales tax exemptions for: sales of tangible personal property sold to assisted living facilities; environmental upgrade equipment or repowering equipment used in an existing power plants; sales made to emergency medical service providers; the retail sales of hydrogen to power fuel cells; sales of carbon dioxide used for enhanced recovery of oil or natural gas; sales of precious metal bullion; sales of equipment sold to biodiesel fuel retailers; and a portion of certain bundled telecommunications service charges.

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## Motor Fuels Taxes

- The 2005 Legislature increased the motor fuels and special fuels tax rate from \$.21 to \$.23 per gallon.
- The 2005 Legislature granted a temporary reduction in motor fuels tax for the purchasers of ethanol blended, “E85” fuel. The tax was reduced by \$.22 per gallon on the first 1.2 million gallons sold in the biennium.

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## Property Tax

- The 2005 Legislature amended the capitalization rate section to provide that the capitalization rate for finding the capitalized average annual gross return may not be less than 8.9% for 2005 and not less than 8.3% for subsequent years. This change will increase agricultural land valuation for property tax purposes.
- The 2005 Legislature modified the provisions of the homestead credit program including raising the income ceiling, expanding the income brackets and raising the amount of homestead valuation that may be excluded from the asset test for homeowners. It also increased the maximum qualifying income for renters. The effect of the legislation will be to increase participation in the program by allowing more elderly and disabled to qualify.

**Comparative Statement of Collections  
for the 2001-03 Biennium and the 2003-05 Biennium**

<b>Tax Type</b>	<b>2001-03 Biennium</b>	<b>2003-05 Biennium</b>	<b>Increase or Decrease</b>	
			<b>Dollars</b>	<b>Percent</b>
Sales and Use Taxes	\$696,635,643	\$780,494,981	\$83,859,338	12.04%
Individual Income Tax	399,450,731	455,465,631	56,014,900	14.02%
Corporation Income Tax	87,628,335	102,926,972	15,298,637	17.46%
Oil and Gas Taxes	119,679,502	192,770,836	73,091,334	61.07%
Coal Taxes	77,649,385	78,279,801	630,416	0.81%
Motor Fuels Taxes	226,887,864	242,173,864	15,286,000	6.74%
All Other Taxes and Fees	252,690,289	260,363,458	7,673,169	3.04%
Total Net Collections	\$1,860,621,749	\$2,112,475,543	\$251,853,794	13.54%

**Sales and Use Taxes:** The majority of the growth in this category is due to general increases in taxable sales and purchases throughout the economy. A small portion of the increase (approximately \$2.5 million) is due to the enactment of an additional 1% statewide lodging tax for promotion of the Lewis and Clark Commemorative Celebration. This tax became effective July 1, 2003, and will sunset on June 30, 2007.

**Individual and Corporation Income Tax:** The growth in these categories reflect the strength of the overall economy, including employment increases and wage and salary growth.

**Oil and Gas Taxes:** The growth in this category is due the high world oil prices and subsequent increases in the state's oil production.

## Statement of Collections 2003 - 05 Biennium

Description	Fiscal Year 2004			Fiscal Year 2005			2003-05 Biennium Net Total
	Gross Collections	Refunds	Net Collections	Gross Collections	Refunds	Net Collections	
Sales & Use Tax	\$371,238,899.61	\$2,915,262.29	\$368,323,637.32	\$413,387,265.06	\$1,833,750.51	\$411,553,514.44	\$779,877,151.87
Motor Vehicle Excise Tax (1)	381,216.60	1,547.88	379,668.72	238,401.49	240.85	238,160.64	617,829.36
City Occupancy Tax	958,481.73		958,481.73	1,095,594.54		1,095,594.54	2,054,076.27
City Sales Tax	68,644,863.73		68,644,863.73	78,761,153.64		78,761,153.64	147,406,017.37
City Restaurant and Lodging Tax	2,393,809.42		2,393,809.42	2,725,274.66		2,725,274.66	5,119,084.08
Individual Income Tax	249,145,899.36	35,000,000.00 *	214,145,899.36	277,319,731.25	36,000,000.00 *	241,319,731.25	455,465,630.61
Corporate Income Tax	57,657,082.98	17,400,000.00 *	40,257,082.98	74,369,889.21	11,700,000.00 *	62,669,889.21	102,926,972.19
Financial Institutions Tax	10,205,540.76	806,487.95	9,399,052.81	9,918,688.83	480,115.00	9,438,573.83	18,837,626.64
Cigarette Tax (Cities)	1,284,013.09		1,284,013.09	1,260,872.83	870.07	1,260,002.76	2,544,015.85
Cigarette Tax (Tribe)	75,178.94		75,178.94	75,690.72		75,690.72	150,869.66
Cigarette Tax (GF)	17,477,509.90		17,477,509.90	17,260,280.17	11,890.96	17,248,389.21	34,725,899.11
Tobacco Tax	2,297,900.83		2,297,900.83	2,499,633.89	46,721.40	2,452,912.49	4,750,813.32
Oil & Gas Gross Production Tax	47,519,074.69		47,519,074.69	74,046,219.42		74,046,219.42	121,565,294.11
Oil Extraction Tax	26,394,584.99	755,671.25	25,638,913.74	49,155,648.39	3,589,020.36	45,566,628.03	71,205,541.77
Telecommunications Tax	9,262,846.14	13,442.97	9,249,403.17	10,240,175.90	480.93	10,239,694.97	19,489,098.14
Wholesale Liquor/beer Tax	5,930,149.31	490.99	5,929,658.32	6,002,462.32		6,002,462.32	11,932,120.64
Estate Tax	3,173,649.74		3,173,649.74	2,109,496.37		2,109,496.37	5,283,146.11
Miscellaneous Remittances	30,852.61		30,852.61	32,439.60		32,439.60	63,292.21
Coal Severance Tax	12,450,641.75		12,450,641.75	11,458,155.66		11,458,155.66	23,908,797.41
Coal Conversion Tax	28,106,143.64		28,106,143.64	26,264,860.00		26,264,860.00	54,371,003.64
Transmission Line Tax	416,081.25		416,081.25	415,500.75		415,500.75	831,582.00
Music and Composition Tax	91,113.28		91,113.28	93,875.04		93,875.04	184,988.32
Sales & Use Tax Cash Bonds	52,900.00	40,250.00	12,650.00	57,600.00	22,250.00	35,350.00	48,000.00
Fuel Dealers & Inspection Fees	16,340.00		16,340.00	620.00		620.00	16,960.00
Motor Vehicle Fuel Tax	76,923,302.62	1,575,000.00 *	75,348,302.62	75,868,464.55	1,814,500.00 *	74,053,964.55	149,402,267.17
Special Fuel Tax	44,764,188.04	178,000.00 *	44,586,188.04	48,460,408.66	275,000.00 *	48,185,408.66	92,771,596.70
Motor Fuel Tax - Cash Bond	4,500.00	1,000.00	3,500.00	7,500.00		7,500.00	11,000.00
Nongame Wildlife Fund	18,859.64		18,859.64	17,920.87		17,920.87	36,780.51
Centennial Tree Trust Fund	18,088.16		18,088.16	17,225.85		17,225.85	35,314.01
Organ Transplant Support Fund	13,601.63		13,601.63	12,905.24		12,905.24	26,506.87
Airline Tax	220,847.33	54.00	220,793.33	214,852.49		214,852.49	435,645.82
Provider Assessment	3,129,862.50		3,129,862.50	3,250,759.00		3,250,759.00	6,380,621.50
<b>TOTAL COLLECTIONS</b>	<b>\$1,040,298,024.27</b>	<b>\$58,687,207.33</b>	<b>\$981,610,816.94</b>	<b>\$1,186,639,566.40</b>	<b>\$55,774,840.08</b>	<b>\$1,130,864,726.32</b>	<b>\$2,112,475,543.26</b>

\* Represents amounts transferred to refund reserve accounts - not actual refunds.

(1) Additional Motor Vehicle Excise Tax was collected by the ND Department of Transportation. Amounts collected by DOT were \$69,737,892.78 in FY04 and \$68,784,172.01 in FY05.

## Net Collections For Fiscal Years Ended June 30, 1996 to 2005

TAX TYPE	FY1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Sales and Use Taxes (1)	\$280,458,241 (2)	\$307,657,943 (2)	\$308,772,887 (2)	\$331,175,284 (2)	\$326,384,604 (2)	\$340,214,298 (2)	\$335,727,423 (2)	\$360,908,220 (2)	\$368,703,306 (2)	\$411,791,675 (2)
Individual Income Tax	152,087,864	163,732,247	177,904,251	181,389,034	198,287,830	213,442,150	198,922,525	200,528,205	214,145,899	241,319,731
Corporation Income Tax	49,047,417	50,300,520	65,543,025	57,877,194	47,528,001	51,606,853	41,600,758	46,027,577	40,257,083	62,669,889
Oil Extraction Tax	16,467,484	19,079,936	15,328,212	12,074,588	21,023,977	24,793,997	17,068,846	22,618,069	25,638,914	45,566,628
Gross Production Tax	26,905,996	34,772,117	29,521,309	22,705,995	38,041,008	46,029,027	36,515,072	43,477,533	47,519,075	74,046,219
Coal Taxes (3)	37,908,208	37,641,659	37,257,693	38,274,528	38,959,421	39,539,107	38,200,783	39,448,602	40,556,785	37,723,016
Motor Fuel Taxes (4)	96,044,324	103,727,317	105,131,399	103,050,448	111,937,585	112,685,871	111,635,118	115,252,746	119,934,491	122,239,373
All Other Taxes & Fees (5)	75,570,780	82,360,093	85,968,455	106,892,031	108,699,368	117,682,317	121,457,316	131,232,956	124,855,264	135,508,194
<b>TOTAL NET COLLECTIONS</b>	<b>\$672,528,624</b>	<b>\$712,171,721</b>	<b>\$734,490,314</b>	<b>\$799,271,832</b>	<b>\$890,861,795</b>	<b>\$945,993,620</b>	<b>\$901,127,841</b>	<b>\$959,493,908</b>	<b>\$981,610,817</b>	<b>\$1,130,864,726</b>

(1) Includes sales and use tax, motor vehicle excise tax.

(2) Effective July 1, 1993 the Department of Transportation collected and deposited the majority of the motor vehicle excise tax collections. These collections are not included in the amounts listed here. DOT collections of motor vehicle excise tax totaled \$48,676,651 in FY-96, \$51,242,411 in FY-97, \$54,421,777 in FY-98, \$51,998,566 in FY-99, \$59,955,616 in FY-00, \$58,425,033 in FY-01, \$65,827,141 in FY-02, \$63,947,770 in FY-03, \$69,737,892.78 in FY-04, and \$68,784,172.01 in FY-05.

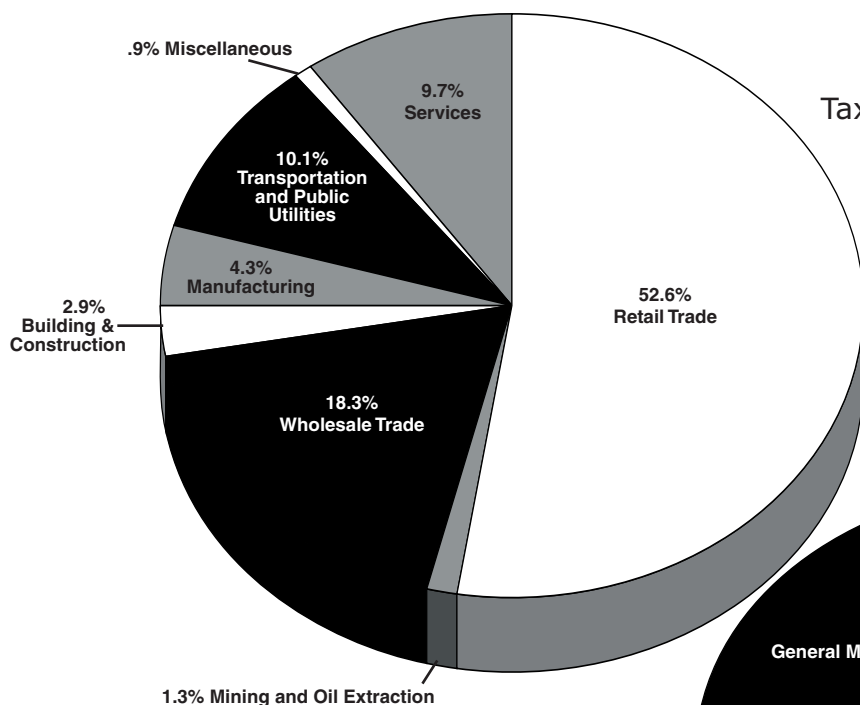
(3) Includes coal severance tax and coal conversion facilities privilege tax.

(4) Includes motor vehicle fuel and special fuel taxes.

(5) Includes cigarette tax, tobacco tax, estate tax, financial institutions tax, transmission lines tax, city sales tax, city lodging tax, music and composition tax, sales and use tax and motor fuel tax cash bonds, motor fuel license fees, solid waste management fees, nongame wildlife contributions, centennial trees contributions, organ transplant support contributions, drug tax, city restaurant and lodging, miscellaneous remittances, provider assessment, telecommunications tax, contractor's highway tax, and wholesale liquor tax.

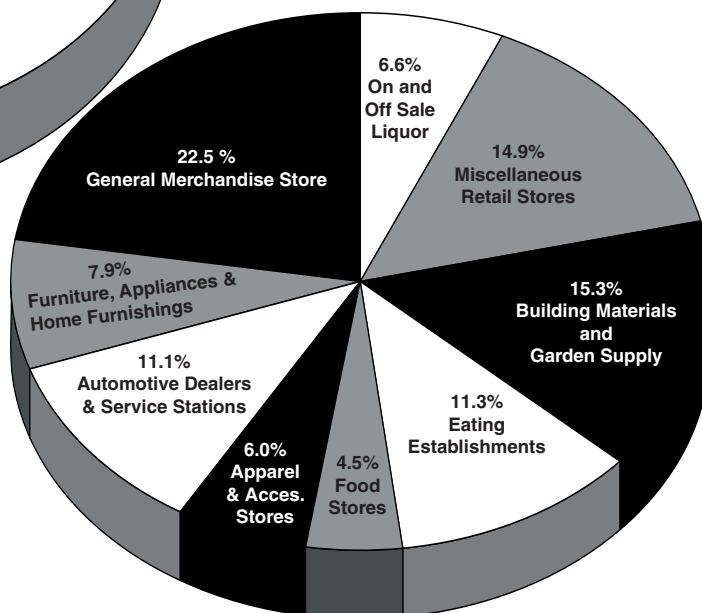
SOURCE: Comparative Statement of Collections, Office of State Tax Commissioner.

## Taxable Sales and Taxable Purchases in the 2003-05 Biennium



Taxable Sales and Taxable Purchases  
Breakdown By  
Major Business Sectors

Taxable Sales and Taxable Purchases  
Breakdown of  
Retail Trade Sector



SOURCE: North Dakota Sales and Use Tax Quarterly Statistical Reports and North Dakota TX-1188 Records

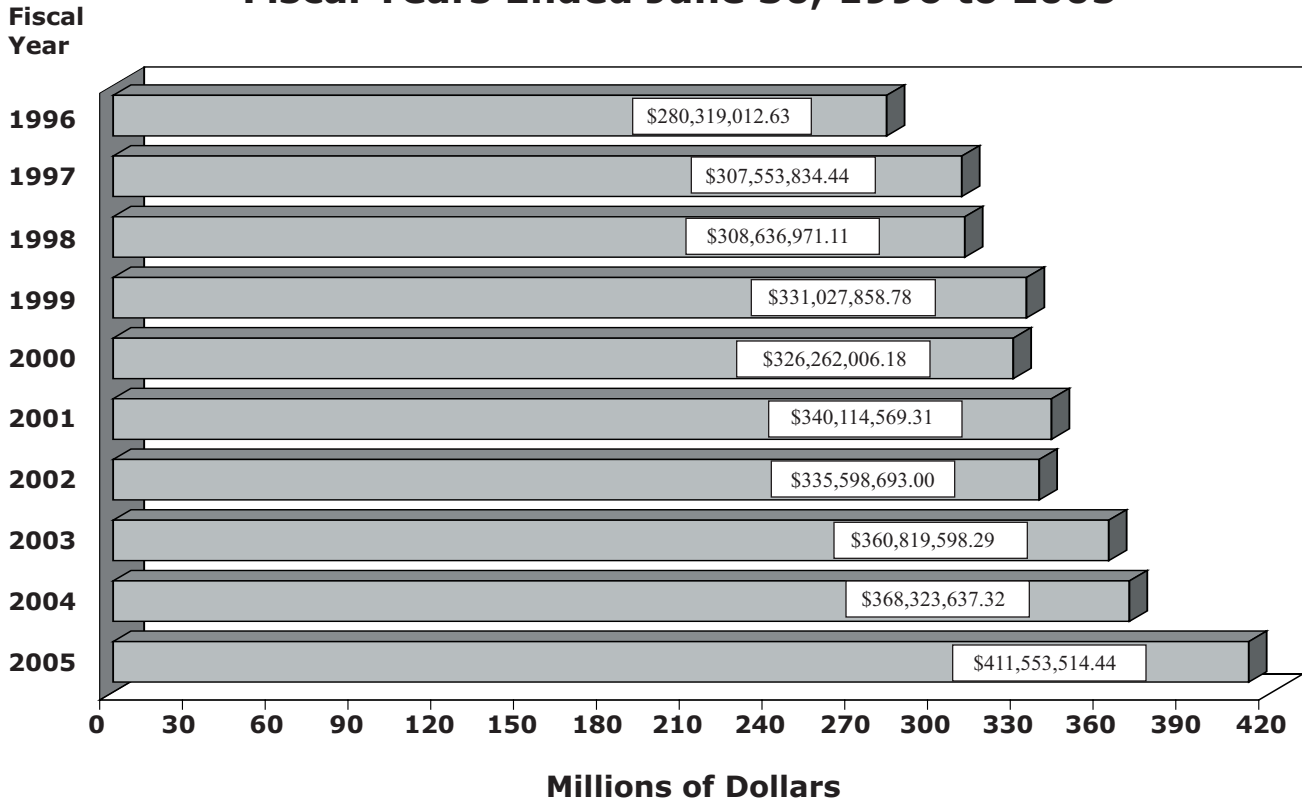
The sales tax is levied upon the gross receipts from retail sales of tangible personal property; furnishings or service of steam, gas and communication services; recreation and amusement receipts; magazines and periodicals; leasing or renting of hotel, motel or tourist court accommodations; leasing or renting of tangible personal property

The use tax is imposed upon any tangible personal property purchased at retail for storage, use, or consumption in this state and not subject to the North Dakota sales tax, unless otherwise exempt by law. Generally this tax applies on purchases of tangible personal property at retail outside North Dakota for use in this state when such purchases are made from a retailer who does not collect a sales and use tax. Many purchases made over the Internet are subject to the use tax. Under these circumstances, the purchaser must remit the tax directly to the Office of State Tax Commissioner.

Sales Tax permit holders are categorized through the use of the Standard Industrial Classification System, generally referred to as "SIC" codes. The SIC system is used by government and business throughout the United States to facilitate record keeping and the compilation of statistics regarding business and industry. (The SIC system has been changed to a new system, the North American Industrial Coding System, or NAICS. This system has not yet



## Sales and Use Tax Collections During Fiscal Years Ended June 30, 1996 to 2005



## Distribution of Sales Tax Collections

	<u>Total Revenues</u>	<u>State General Fund</u>	<u>State Aid Distribution Fund</u>
Fiscal Year 1996	280,319,012.63	246,680,731.09	33,638,281.54
Fiscal Year 1997	307,553,834.44	270,647,374.28	36,906,460.16
Fiscal Year 1998	308,636,871.11	271,606,220.79	37,030,650.32
Fiscal Year 1999	331,027,858.78	297,895,606.46	33,132,252.32
Fiscal Year 2000	326,262,006.18	300,161,047.36	26,100,958.82
Fiscal Year 2001	340,114,569.31	312,905,418.95	27,209,150.36
Fiscal Year 2002	335,598,693.00	308,750,797.56	26,847,895.44
Fiscal Year 2003	360,819,598.29	331,954,030.38	28,865,567.91
Fiscal Year 2004	368,323,637.32	338,942,963.00	29,380,674.32
Fiscal Year 2005	411,553,514.44	378,815,329.96	32,738,184.48

## **Sales and Use Tax**

Generally, the North Dakota sales and use tax is imposed on the gross receipts of retailers. The tax is paid by the purchaser and collected by the retailer. Currently, the sales and use tax rates are as follows:

- The general rate is 5%.
- The rate on retail sale of alcoholic beverages is 7%.
- There is an additional 1% on hotel/motel rooms for a total state rate of 6%.
- The rate on new farm machinery is 3%.
- The rate on new mobile homes is 3%.
- The rate on retail sale of natural gas is 2%.

A brief history of changes to the sales tax base and rates follows:

Effective July 1, 1991, manufacturing or processing machinery and equipment used by new or expanding manufacturers or agricultural producers was exempted from the sales tax. Additionally, an exemption was created for production equipment in new, large lignite-burning power plants and for other tangible personal property used in construction of the power plant.

Effective January 1, 1993, the sales tax rate for natural gas was reduced from 5% to 4%, and was further reduced in 1% increments becoming 2% effective January 1, 1995.

Effective July 1, 1993, the exemption for manufacturing machinery and equipment was broadened to include recycling machinery and equipment. The definition of what equipment qualifies for the manufacturing exemption was further broadened in a July 1994 special session to include all equipment utilized until final transportation from the site, and to include research and development equipment.

Effective July 1, 1995, the sale of recapping and retreading services for tires became subject to the sales tax.

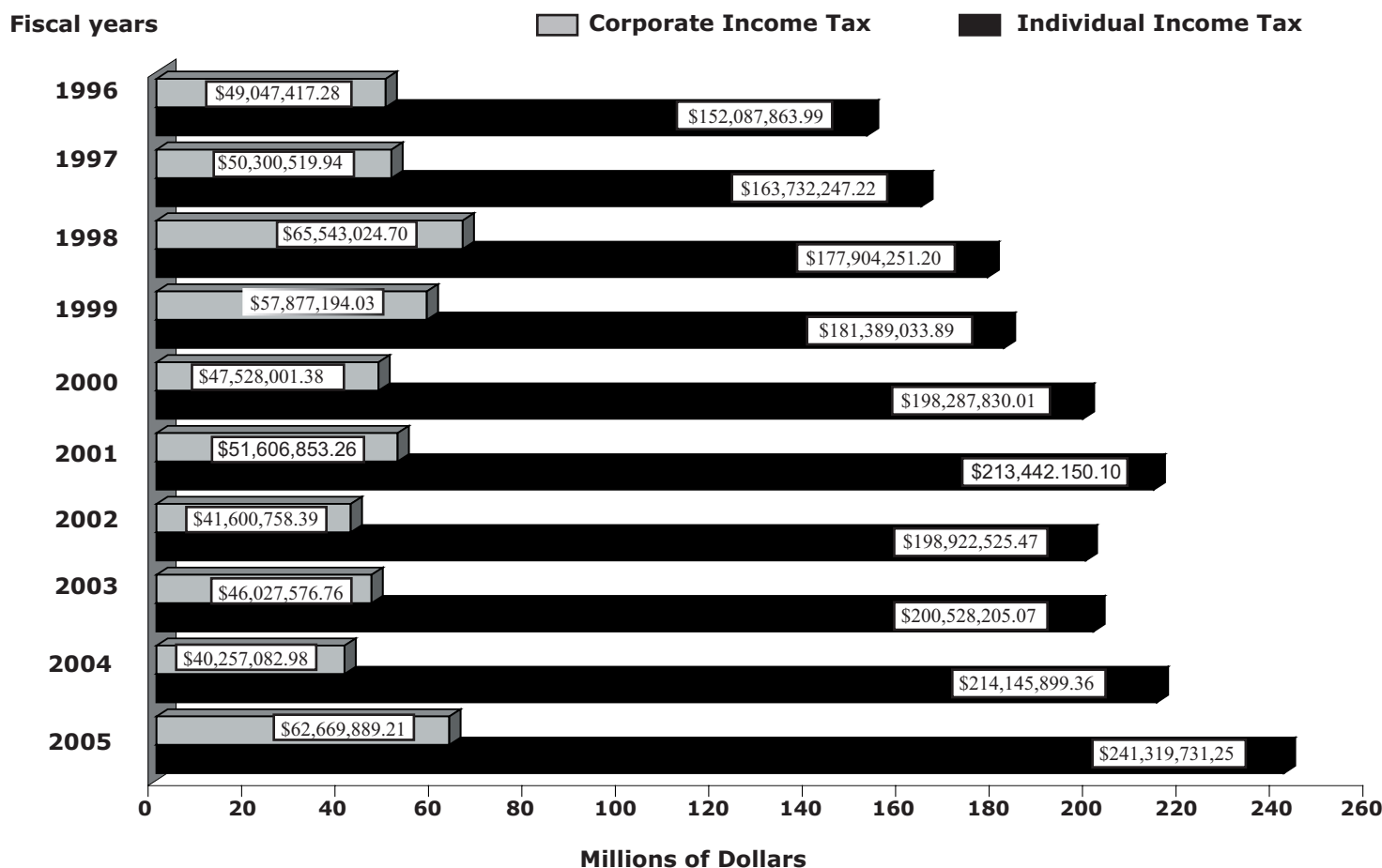
Effective July 1, 1997, the exemption for purchases made by an out-of-state political subdivision was modified to include only those that exempt purchases made by a North Dakota political subdivision.

Effective May 1, 1999, the sales tax rate on used farm equipment and farm repair parts was decreased from 3% to 1.5%.

Effective July 1, 2002, used farm equipment and farm repair parts became exempt from sales tax.

Effective July 1, 2003, the sales tax rate was increased to 6% for hotel and motel rooms. The receipts from this additional 1% was to assist with the promotion of the various Lewis and Clark Bicentennial events being held throughout the state.

## Net Individual and Corporate Income Tax Collections During Fiscal Years Ended June 30, 1996 to 2005



### Individual Income Tax

The individual income tax rates were 14% of adjusted federal income tax liability for tax years 1996 through 2000. Beginning in 2001, the individual income tax rates range from 2.1% to 5.54% of North Dakota taxable income. Tax brackets are adjusted for inflation annually.

After years of steady growth, the drop in individual income tax collections in FYs 2002 and 2003 reflect primarily stock market losses and the resultant drop in adjusted gross income. The rebound in FYs 2004 and 2005 reflect growth in the economy.

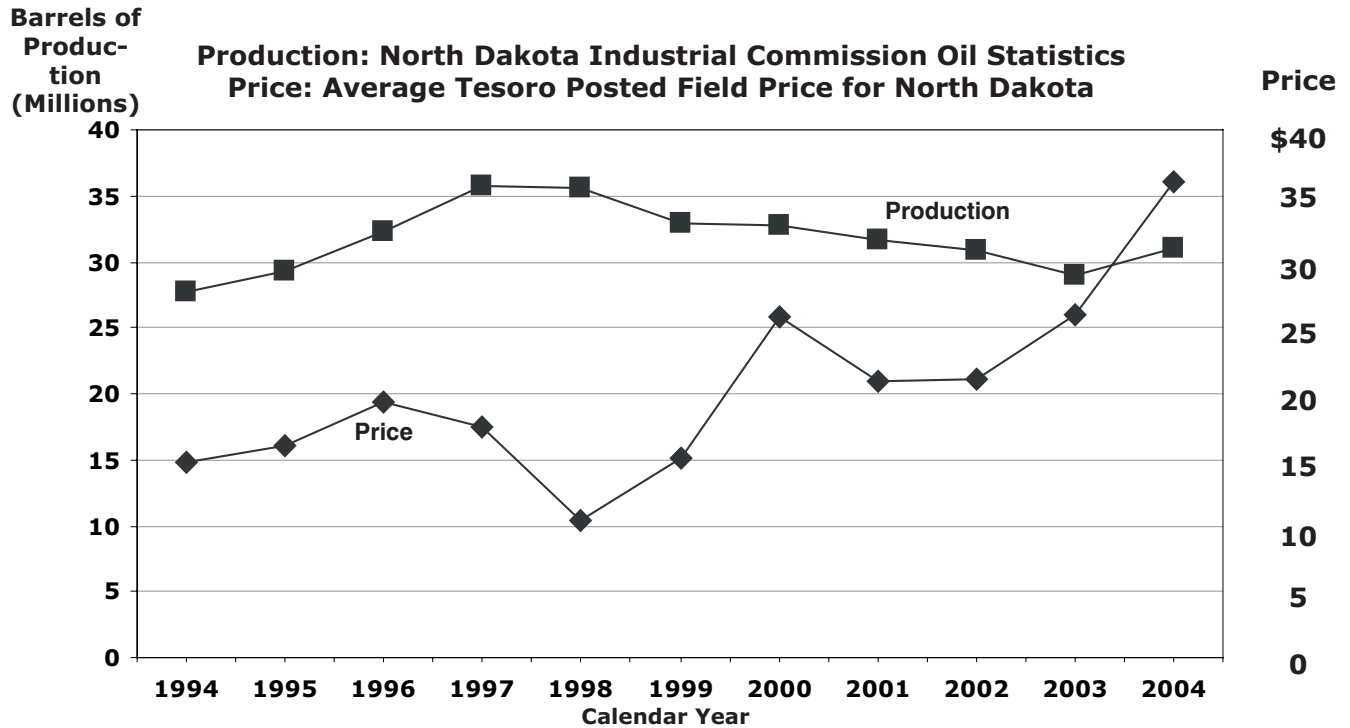
Individual income tax revenues are deposited in the State General Fund.

### Corporate Income Tax

Corporation income tax revenues fluctuate in accordance with changes in national corporation profits and world oil prices. Audit collections also vary significantly from year to year.

Corporation income tax revenues are deposited in the State General Fund.

## Annual Crude Oil Production in North Dakota and Domestic Oil Price Per Barrel During Calendar Years 1994 to 2004



### Oil and Gas Gross Production and Oil Extraction Tax Revenues 2003-05 Biennium

		<u>Net Revenue</u>	<u>State General Fund Share of Net Revenue</u>
Oil & Gas Gross Production Tax	Fiscal Year 2004	\$47,519,074.69	\$28,256,439.62
Oil & Gas Gross Production Tax	Fiscal Year 2005	74,046,219.42	49,629,401.41
Oil Extraction Tax	Fiscal Year 2004	25,638,913.74	15,291,024.91
Oil Extraction Tax	Fiscal Year 2005	45,566,628.03	<u>27,301,469.20</u>
Total State General Fund Share			\$120,478,335.14
Statutory Cap			<u>71,000,000.00</u>
Transfer to Permanent Oil Trust Fund			\$49,478,335.14

## **Oil and Gas Gross Production Tax**

The gross value of oil production at the well, less any part which is specifically exempt, is taxed at a rate of 5% in lieu of property taxes on the oil and gas producing properties. Gas production is taxed on a volume basis at a rate determined by the movement of a fuels cost index. During fiscal year 2004, gas production was taxed at the rate of 6.15¢ per 1,000 cubic feet (MCF). In fiscal year 2005, the tax rate was 10.37¢ per MCF.

Thirty-three and one-third percent of the first one-fifth of the oil and gas gross production tax revenue, up to \$5 million, is distributed to the Oil Impact Grant Fund. The remaining 66.7% of the first one-fifth of the tax revenue is distributed to the State General Fund. The remaining four-fifths of the tax revenue is distributed between the county in which the oil or gas is produced and the State General Fund according to the following distribution schedule: The first \$1 million each year is distributed 75% to the county and 25% to the State General Fund; the second \$1 million, 50% to the county, 50% to the State General Fund; amounts over \$2 million, 25% to the county, 75% to the State General Fund. However, the amount that any one county can receive from each fiscal year of production is limited according to population as follows: population up to 3,000, no more than \$3.9 million; population between 3,000 and 6,000, no more than \$4.1 million; population of 6,000 and greater, no more than 4.6 million. When a county reaches its maximum amount allowed, the entire four-fifths share of subsequent revenue from fiscal year production is deposited in the State General Fund. The county allocation is apportioned as follows: 45% to the county general fund, 35% to the school districts within the county and 20% to the incorporated cities.

Any oil tax revenue in the State General Fund in excess of \$71 million in any given biennium is transferred to the Permanent Oil Taxes Trust Fund. Up to 2% of the State General Fund share is transferred to the Oil and Gas Research Fund.

## **Oil Extraction Tax**

The oil extraction tax became effective January 1, 1981, as a result of an initiated measure passed by the citizens of North Dakota. The gross value of oil production at the well, less any part which is specifically exempt, was taxed at 6.5%.

The 1987 Legislative Assembly changed the oil extraction tax with respect to new wells, secondary and tertiary recovery projects, and low production (stripper) wells. Oil produced from new wells drilled and completed after April 27, 1987, was exempted from the oil extraction tax during the first 15 months following the well's completion. After the 15 month exemption period, the oil produced from the qualifying new well was subjected to a reduced oil extraction tax rate of 4%. The 4% tax rate may also apply to oil produced from a well in a qualifying secondary or tertiary recovery project. The legislature expanded the definition of stripper well property to allow more wells to qualify for the stripper well exemption.

Effective July 1, 1987, the oil extraction tax exemption for the private royalty interest was eliminated.

The 1989 Legislative Assembly provided a one year exemption from the oil extraction tax for qualifying work-over projects.

The 1991 Legislative Assembly provided a time-limited exemption from the oil extraction tax for incremental oil produced from an enhanced recovery project. Upon expiration of the exemption, incremental oil produced by the project qualifies for a 4% oil extraction tax rate. Nonincremental oil may qualify for a reduced tax rate of 4%.

The 1993 Legislative Assembly modified the definition of a qualifying work-over project. Upon completion of the work-over exemption, the project qualifies for a 4% oil extraction tax rate. The 1995 Legislature also modified exemptions and created new ones.

In the 2003-05 biennium, the oil extraction tax revenue was distributed according to a formula which allocated 60% of the revenue to the State General Fund, 20% to the Resources Trust Fund and 20% divided equally between the Common Schools Trust Fund and Foundation Aid Stabilization Fund. Any oil tax revenue in excess of \$71 million, in any given biennium, is transferred to the permanent oil taxes trust fund. Up to 2% of the State General Fund share is transferred to the Oil and Gas Research Fund.

## Coal Conversion Tax 2003-05 Biennium

### Kilowatt Hours Produced During the 2003-05 Biennium

	<u>Fiscal Year 2004</u>	<u>Fiscal Year 2005</u>
Total Kwh Produced	29,611,610,863	29,191,940,934

### Distribution of Coal Conversion Tax Revenue - 2003-05 Biennium

<u>Distribution</u> <u>Fund</u>	<u>Fiscal Year 2004</u>	<u>Fiscal Year 2005</u>
Counties	\$3,673,327.33	\$3,500,845.17
State General Fund	<u>24,432,816.31</u>	<u>22,764,014.83</u>
Total Revenue Collected	\$28,106,143.64	\$26,264,860.00

Coal Conversion Facilities Tax: Facilities that process or convert coal are subject to the coal conversion facilities tax unless expressly exempted by statute. Electrical generating plants that have a single generating unit with the capacity of 10,000 kilowatts or more are subject to the coal conversion facilities tax. Electrical generating plants are subject to two conversion tax levies. One levy is .25 mill times 60% of installed capacity times the number of hours in the taxable period. The revenue from this levy is distributed 85% to the State General Fund and 15% to the county in which the plant is located. The other levy is .25 mill per kwh of electricity produced for sale. The revenue from this levy is distributed to the State General Fund.

Also subject to the coal conversion facilities tax is the coal gasification plant. This tax is the greater of: (A) 4.1% of gross receipts, excluding revenues derived from by-products (up to a maximum of 20% of gross receipts) and revenue from synthetic natural gas produced in excess of 110 million cubic feet per day, or (B) 13.5¢ on each 1,000 cubic feet of synthetic natural gas produced up to 110 million cubic feet per day. The U.S. Department of Energy operated the coal gasification plant from August 1, 1985, through October 31, 1988, during which time the plant was exempt from the coal conversion facilities tax. The plant was purchased by the Dakota Gasification Company, which began taxable production November 1, 1988. The new owner was exempt from the state's share (65%) of the tax for five years from the date of purchase because of provisions enacted by the 1987 Legislative Assembly. (This exemption expired October 31, 1993). Throughout the five year exemption from the state's share, the plant was subject to the county share of the tax (35% at that time).

The 1989 Legislative Assembly enacted a special coal conversion facilities tax on coal beneficiation plants of 20 cents per ton of beneficiated coal produced for sale or 1¼% of gross receipts, whichever is greater. An exemption was made for beneficiated coal produced in excess of 80% of the plant design capacity.

The 1991 Legislative Assembly enacted a five-year exemption from part or all of the tax for new lignite-burning electrical generating plants.

The 1997 Legislative Assembly exempted from the Coal Conversion Facilities Tax the revenue from the sale of by-products, to a maximum of thirty-five percent of gross receipts, for a four-year period beginning January 1, 1997. Revenue from the sale and transportation of carbon dioxide for use in enhanced recovery of oil and natural gas was also exempted from this tax.

The 2001 Legislative Assembly amended the definition of a coal conversion facility to include an electrical generating plant that has at least one single unit with a capacity of 10,000 kilowatts or more. The tax rate on installed capacity increased to .65 mill times 60% of installed capacity times the number of hours in the taxable period. Distribution of the tax on installed capacity changed to allocate 85% to the State General Fund and 15% to the county in which the plant is located. The tax rate on synthetic natural gas increased to \$.135 per 1,000 cubic feet. The tax rate on gross receipts changed from 2.5% to 4.1%. The first \$41,666.67 each month from a coal conversion facility other than an electrical generating plant is deposited in the State General Fund. The remainder is allocated 85% to the State General Fund and 15% to the county in which the plant is located. The legislature provided that the allocation of coal conversion tax to each county may not be less in each calendar year than it was in the immediately preceding calendar year.

Any county which has a coal conversion facility that was not a coal conversion facility before January 1, 2002, had to receive for calendar year 2002 at least as much as that facility paid in property taxes for taxable year 2001. For subsequent years, that county must receive no less than it received in the preceding calendar year. All amounts received from that facility must be allocated in the same manner property taxes for the facility were allocated for taxable year 2001.



## **Coal Severance Tax 2003-05 Biennium**

### **Tonnages Severed During the 2003-05 Biennium**

Taxable Tons Severed:

<u>County</u>	<u>Fiscal Year 2004</u>	<u>Fiscal Year 2005</u>
Bowman	80,890	60,914
McLean	7,666,305	7,460,961
Mercer	17,529,946	15,634,491
Oliver	5,836,978	5,788,035
Williams	7,742	14,775
Total Taxable Tons Severed	31,121,861	28,959,176

### **Distribution of Coal Severance Tax Revenue - 2003-05 Biennium**

<u>Distribution Fund</u>	<u>Fiscal Year 2004</u>	<u>Fiscal Year 2005</u>
Counties (70%)	\$8,274,160.64	\$7,614,597.13
Land Board (30%)	3,546,068.84	3,263,398.77
State General Fund (0%)	0	0
Lignite Research (add'l. 2¢ per ton)	<u>630,412.27</u>	<u>580,159.76</u>
Total Revenue Collected	\$12,450,641.75	\$11,458,155.66

## **Coal Severance Tax**

The Coal Severance Tax was enacted by the 1975 North Dakota Legislative Assembly. This tax is applied to coal severed from the ground on a rate per ton basis. The 1975 law provided for a 50¢ per ton with an escalator clause that increased the tax 1¢ per ton for each three point increase in the Wholesale Price Index. The 1975 law was made effective July 1, 1975.

The revenues collected during the 1975-77 biennium were distributed according to the following formula:

1. 35% to a special fund to be granted by the Impact Office to impacted political subdivisions.
2. 30% to a special trust fund to be administered by the State Land Board.
3. 5% to coal-producing counties.
4. 30% to the State General Fund.

The 1975 law was replaced with the 1977 law, changing the rate and distribution formula. The 1977 law, effective July 1, 1977, provided for a 65¢ per ton with an escalator clause that increased the tax 1¢ per ton on a quarterly basis for every one point increase in the Wholesale Price Index.

The 1977 law also changed the distribution of revenues to the following formula:

1. 35% to a special fund to be granted by the Impact Office to impacted political subdivisions.
2. 15% to a special trust fund to be administered by the State Land Board.
3. 20% to coal-producing counties.
4. 30% to the State General Fund.

The 1977 law was replaced with the 1979 law. The 1979 law, effective July 1, 1979, provided for an 85¢ per ton tax with an escalator that would increase the tax 1¢ per ton on a semi-annual basis for every four point increase in the Wholesale Price Index (now known as the Producer Price Index). The distribution of revenues remained the same.

The 1981 Legislative Assembly exempted from the coal severance tax coal used by the state or any of its political subdivisions and coal used for heating buildings within the state. Coal used for heating purposes became subject to the sales tax.

The 1985 Legislative Assembly exempted from the coal severance tax coal used in agricultural processing or sugar beet refining plants within North Dakota or adjacent states. Also, the tax rate was reduced by 50% for coal burned in a cogeneration facility designed to use renewable resources to generate 10% or more of its energy output.

The 1987 Legislative Assembly amended the coal severance tax law, removing the escalator clause and reducing the tax rate from \$1.04 to 75¢ per ton and enacting an additional temporary tax of 2¢ per ton dedicated to lignite research. The 1987 law also changed the distribution of the revenue to the following formula:

1. 15% to a special trust fund to be administered by the State Land Board
2. 35% to coal-producing counties
3. 50% to the State General Fund

The 1989 Legislative Assembly made the two cents per ton tax for lignite research a permanent tax. A resolution was passed which placed on the Primary Election ballot a constitutional amendment to allow up to 50% of the tax collected and deposited in the permanent trust fund during a biennium to be appropriated by the Legislative Assembly for lignite research, development and marketing. The measure was approved by the voters and became effective July 1, 1990.

The 1993 Legislative Assembly limited the amount of coal production on which a coal producing county has to share its severance tax with a nearby nonproducing county. The uses of the trust fund were expanded to include loans for school construction. Coal shipped out of state after June 30, 1995, and before July 1, 2000, was made exempt from the state's 50% portion of the tax; counties may grant a partial or complete exemption from the county's 35% portion. A constitutional amendment was placed on the June 1994 Primary Election ballot that allowed appropriations from the trust fund for clean coal demonstration projects approved by the North Dakota Industrial Commission and the United States Department of Energy. The amendment was approved by the voters.

The 2001 Legislative Assembly reduced the tax rate from 75¢ per ton to 37.5¢ per ton and eliminated the distribution to the State General Fund. The allocation was changed to 30% to the coal development trust fund and 70% to the coal producing counties.

## **Transmission Line Tax Collections**

Collections represent payments made by cooperatives that owned or operated electrical transmission lines of 230 kilovolts or larger. They were taxed at the rate of \$225.00 per mile.

	<u>2001-03 Biennium</u>		<u>2003-05 Biennium</u>	
	<u>FY-2002</u>	<u>FY-2003</u>	<u>FY 2004</u>	<u>FY 2005</u>
Transmission Line Tax	\$411,860.25	\$411,860.25	\$416,081.25	\$415,500.75

SOURCE: Property Tax Division, Office of State Tax Commissioner

## **Rural Electric Cooperatives**

Rural electric cooperatives are nonprofit cooperative corporations engaged in the distribution or transmission of electric energy primarily for consumption in rural areas. Rural electric cooperatives also include those nonprofit cooperative corporations engaged in the generation of electric energy primarily for consumption in rural areas. The electrical energy generating units of such plants are under 100,000 kilowatts of generating capacity. Such plants are taxable pursuant to N.D.C.C. ch. 57-33.

Rural electric cooperatives are taxed at 1% of their gross receipts each year for the first 5 years and 2% each year thereafter in lieu of taxes on all property except land. The tax of each rural electric cooperative is certified by the Tax Commissioner to the counties for collection and is allocated by the county auditor to the taxing district in which the rural electric line or plant is located.

Taxes Certified for Collection for the Years: \*

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Rural Electric Cooperative	\$5,325,544.69	\$5,487,051.29	\$5,480,163.44	\$5,737,510.39

SOURCE: Property Tax Division, Office of State Tax Commissioner

\*These taxes are certified in the fall of the indicated years and payable in the following year.

## **Telecommunications Carriers**

Beginning with tax year 1998, all telecommunications companies including mutual and cooperative telephone companies pay a gross receipts tax at the rate of 2½ percent of adjusted gross receipts. The tax is payable to the State Tax Commissioner and is in lieu of all real and personal property taxes on property directly used by a telecommunications carrier in its telecommunications operations. There is a standing appropriation of \$8.4 million which the State Treasurer distributes annually to counties and their political subdivisions according to a statutory formula, regardless of the amount generated by the gross receipts tax.

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Telecommunications Tax Assessed	\$9,817,350.94	\$9,998,777.86	\$9,845,267.56	\$9,710,073.74

SOURCE: Property Tax Division, Office of State Tax Commissioner

## **Financial Institutions Tax**

The 1997 North Dakota Legislature passed legislation changing the tax law covering financial institutions. The legislation repealed North Dakota Century Code chs. 57-35, 57-35.1 and 57-35.2, and replaced them with a new chapter, N.D.C.C. ch. 57-35.3. The legislation is effective for taxable years beginning on or after January 1, 1997.

The tax under N.D.C.C. ch. 57-35.3 is imposed on every financial institution for the privilege of transacting business in North Dakota. The definition of financial institution includes not only banking entities, but also bank holding companies, production credit associations and leasing companies.

In general, the tax liability of the financial institution is determined by multiplying North Dakota taxable income by seven percent (7%). This amount, which may not be less than fifty dollars (\$50.00), is divided between the state general fund and the financial institution tax distribution fund for eventual distribution to the counties. The state general fund receives 2/7's of the tax while the financial institutions tax distribution fund receives 5/7's of the tax. The state general fund portion of the tax must be paid on or before April 15 following the end of the taxable year. The financial institution tax distribution fund portion of the tax must be paid on or before January 15 of the second year following the taxable year.

## **Financial Institutions Tax Collections**

### **2003-05 Biennium**

	<u>FY 2004</u>	<u>FY-2005</u>
Total Net Collections	\$ 9,399,052.81	\$ 9,438,573.83
State General Fund	\$ 2,646,070.81	\$ 2,312,602.14
Financial Institution Distribution Fund	\$ 6,752,982.00	\$ 7,125,971.69

## Cigarette and Tobacco Products Net Tax Collections

	<u>2001-03 Biennium</u>		<u>2003-05 Biennium</u>	
	<u>FY-2002</u>	<u>FY-2003</u>	<u>FY 2004</u>	<u>FY 2005</u>
3¢ per package cigarette tax distributed to cities on population basis	\$1,313,777.18	\$1,220,605.28	\$1,284,013.09	\$1,260,002.76
41¢ per package cigarette tax distributed to State General Fund	\$17,912,554.24	\$16,846,053.33	\$17,449,350.08	\$17,231,928.65
28% of the wholesale price of tobacco products distributed to State General Fund	\$2,233,056.92	\$2,276,307.83	\$2,297,900.83	\$2,499,633.89

The cigarette tax rate is 44¢ per package of 20 cigarettes. Generally, the tobacco products tax is 28% of the wholesale purchase price. Some tobacco products are taxed based on weight.

### Standing Rock Sioux Tribe Cigarette and Tobacco Tax:

	<u>2001-03 Biennium</u>		<u>2003-05 Biennium</u>	
	<u>FY-2002</u>	<u>FY-2003</u>	<u>FY 2004</u>	<u>FY 2005</u>
Amount distributed to the Tribe	\$80,626.06	\$85,933.96	\$75,178.94	\$75,690.72
Amount distributed to the State General Fund	\$21,970.58	\$23,417.00	\$28,159.82	\$28,351.52

The Office of State Tax Commissioner acts as an agent for the Tribe in the collection of a tribal cigarette and tobacco tax. The tax rates are identical to the state cigarette and tobacco tax rates. Seventy-five percent of the collection, less a 3% administrative fee is returned to Standing Rock Sioux Tribe. The administrative fee plus 25% of the collections are deposited into the State General Fund.

SOURCE: Comparative Statement of Collections, Office of State Tax Commissioner.

## Airline Tax

Operating real property of air transportation companies is assessed by the State Board of Equalization. The taxes are computed and collected by the Tax Commissioner and certified to the State Treasurer for distribution. The taxes upon air transportation companies are allocated by the State Treasurer to the city or municipal airport authority where each company makes regularly scheduled landings according to the ratio that the value of the company's assessable property at a given city or municipal airport bears to the total value of the company's assessable property located in North Dakota.

### TAXES CERTIFIED TO STATE TREASURER FOR THE YEARS: \*

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Airlines	\$211,679.32	\$215,003.56	\$220,590.95	214,852.49

\* Airline assessments of real property are determined by the State Board of Equalization in August of each year. The tax due amounts are computed in the spring of the following year using the average mill rate for cities operating airports served by scheduled airlines.

SOURCE: Property Tax Division, Office of State Tax Commissioner.

## Aviation Fuel, Motor Vehicle Fuel, and Special Fuel Taxes Collections and Disbursements 2003-2005 Biennium

Aviation Fuel, Motor Vehicle Fuel, & Special Fuel Collections - Tax, Penalty, Interest, & Fees	FY-2004 Dollars	FY-2005 Dollars
<b>Aviation Fuel:</b>		
Aviation Gasoline - at \$.08 Per Gallon	\$191,041.61	\$175,393.32
Jet Fuel - at \$.08 Per Gallon	880,425.99	952,994.20
Penalty and Interest	37.95	89.68
<i>Total Collections</i>	\$1,071,505.55	\$1,128,477.20
Total Refunded	301,720.57	186,797.58
<i>Net Collections</i>	\$769,784.98	\$941,679.62
<b>Motor Vehicle Fuel:</b>		
Gasoline - at \$.21 Per Gallon	\$54,141,384.99	50,445,400.40
Gasohol - at \$.21 Per Gallon	22,382,857.75	25,043,624.99
Penalty and Interest	20,095.94	8,479.28
<i>Total Collections</i>	\$76,544,338.68	\$75,497,504.67
Total Refunded	1,848,570.38	1,736,141.13
<i>Net Collections</i>	\$74,695,768.30	\$73,761,363.54
<b>Special Fuel:</b>		
Diesel-Heating-Kerosene-Propane - at \$.21 Per Gallon	\$36,975,243.72	\$38,239,906.88
Diesel-Heating-Kerosene-Propane - at 2% of Selling Price	6,571,829.51	8,950,363.05
Penalty and Interest	29,194.80	12,129.98
<i>Total Collections</i>	\$43,576,268.03	\$47,202,399.91
Total Refunded	99,825.68	
<i>Net Collections</i>	\$43,476,442.35	\$47,202,399.91
<b>Consolidated Laboratories Inspection Fees:</b>		
From Motor Vehicle Fuel	\$93,601.89	98,441.78
From Special Fuels (except propane)	97,427.65	107,179.66
<i>Total Collections</i>	\$191,029.54	\$205,621.44
<b>License Fees:</b>		
Aviation Fuel Tax Licenses	\$360.00	\$200.00
Motor Vehicle Fuel Tax Licenses	500.00	200.00
Special Fuels (Diesel-Heating-Kerosene) Tax Licenses	260.00	140.00
Liquefied Petroleum Gas Tax Licenses	160.00	80.00
Motor Carrier Temporary Trip Permits	15,060.00	
<i>Total Collections</i>	\$16,340.00	\$620.00
<b>Cash Bonds:</b>	\$4,500.00	\$7,500.00
<b>Standing Rock Sioux Tribal Tax Collections:</b>		
Gasoline/Gasohol - at \$.21 Per Gallon	\$285,362.05	\$272,518.10
Diesel Fuel - at \$.21 Per Gallon	18,986.81	22,351.89
<i>Total Collections</i>	\$304,348.86	\$294,869.99
 <i>Grand Total of Collections</i>	 \$121,708,330.66	 \$124,336,993.21
<i>Grand Total of Refunds</i>	2,250,116.63	1,992,938.71
<i>Grand Total of Net Collections</i>	\$119,458,214.03	\$122,414,054.50

Aviation Fuel, Motor Vehicle Fuel, & Special Fuel Disbursements		
Aeronautics Commission Special Fuel (4% of Price)	\$434,053.98	\$400,867.51
Aeronautics Commission Special Fuel (\$.08 Per Gallon)	459,611.57	527,689.69
Highway Distribution	111,644,818.12	113,931,318.90
Highway Distribution (Earmarked for Ethanol Production Incentive)	117,749.77	107,777.95
Township Highway Aid Fund	5,393,333.62	5,424,853.76
Agricultural Products Utilization Commission	236,786.12	217,782.17
Agricultural Research Fund	470,999.08	431,111.80
Refund Reserve Accounts	1,753,000.00	2,089,500.00
General Fund	191,029.54	205,621.44
Cash Bonds	4,500.00	7,500.00
Operating Expense Fund	698,100.00	698,100.00
Standing Rock Sioux Tribe	304,348.86	294,869.99
<i>Total Disbursements</i>	\$121,708,330.66	\$124,336,993.21



## Aviation Fuel, Motor Vehicle Fuel, and Special Fuel Taxes Taxable Gallons 2003-2005 Biennium

Aviation Fuel, Motor Vehicle Fuel, & Special Fuel Taxable Gallons	FY-2004 Gallons	FY-2005 Gallons
<b>Aviation Fuel:</b>		
Aviation Gasoline - at \$.08 Per Gallon	2,383,781	2,219,610
Jet Fuel - at \$.08 Per Gallon	11,114,182	11,735,493
<i>Total Taxable Gallons</i>	13,497,963	13,955,103
Gallons on Which Tax \$.08 Per Gallon Tax was Refunded and 4% tax assessed	8,017,819	7,439,155
<i>Net \$.08 Taxable Gallons</i>	5,480,144	6,515,948
<b>Motor Vehicle Fuel:</b>		
Gasoline - at \$.21 Per Gallon	262,108,957	242,567,191
Gasohol - at \$.21 Per Gallon	108,814,865	123,563,091
<i>Total Taxable Gallons</i>	370,923,822	366,130,282
Gallons on Which Tax was Refunded	12,338,689	11,182,318
<i>Net Taxable Gallons</i>	358,585,133	354,947,964
<b>Special Fuel:</b>		
Diesel-Heating-Kerosene-Propane - at \$.21 Per Gallon	177,164,572	181,293,961
Diesel-Heating-Kerosene-Propane - at 2% of Selling Price	322,361,843	333,386,326
<i>Total Taxable Gallons</i>	499,526,415	514,680,287
 <i>Grand Total of Taxable Gallons</i>	 883,948,200	 894,765,672
<i>Grand Total of Gallons on Which Tax was Refunded</i>	12,338,689	11,182,318
<i>Grand Total of Taxable Gallons</i>	871,609,511	883,583,354

**Aviation Fuel:** A per gallon tax is levied on all aviation fuel. For this biennium the tax was \$.08 per gallon. Consumers purchasing aviation fuel for use in aircraft may request a refund of the \$.08 per gallon tax. When a refund is granted, the consumer is assessed a tax of 4% of the price of the fuel. The 4% tax is assessed in lieu of the \$.08 per gallon tax and is deducted from the refund.

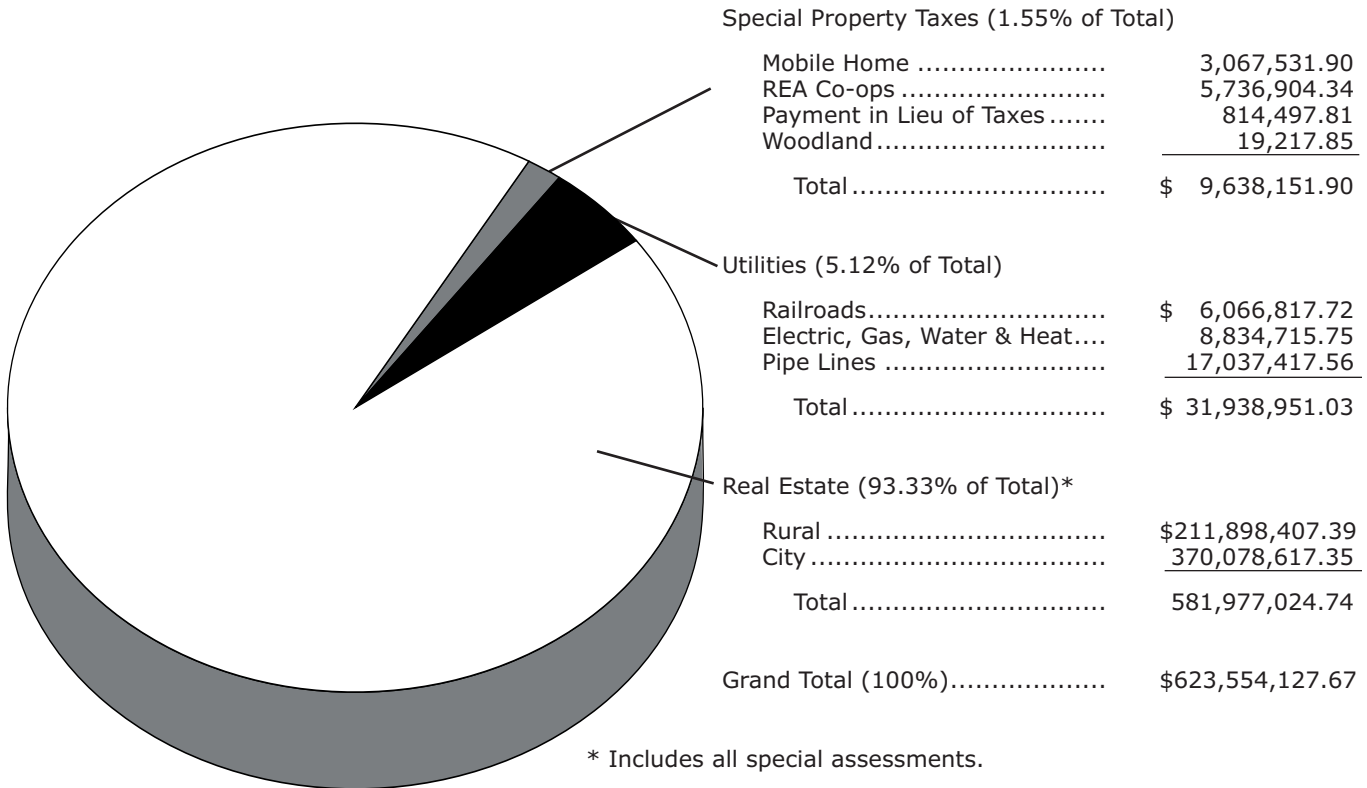
**Motor Vehicle Fuel:** A per gallon tax is levied on all motor vehicle fuel (gasoline and gasohol). For this biennium the tax was \$.21 per gallon. The tax is refundable when the fuel is used in nonlicensed equipment for an agricultural, industrial or railroad purpose. Refunds to industrial consumers are reduced by \$.015 per gallon. Of the \$.015 per gallon withheld, \$.01 per gallon is Township Highway Aid Fund revenue and \$.005 per gallon is deposited into the Agriculturally Derived Fuel Tax Fund. Refunds to agricultural consumers are reduced by \$.08 per gallon. Of the \$.08 per gallon withheld, \$.01 per gallon is Township Highway Aid Fund revenue, \$.01 per gallon is earmarked for ethanol production incentives, \$.02 per gallon is deposited into the Agriculturally Derived Fuel Tax Fund, and \$.04 per gallon is deposited into the Agricultural Research Fund.

**Special Fuels:** A per gallon tax is levied on propane and kerosene used in licensed vehicles and on all clear diesel and heating fuels. For this biennium the tax was \$.21 per gallon. A tax of 2% is levied on propane and kerosene exempt from the per gallon tax and on all dyed diesel and heating fuels. Special fuel taxes are not refundable.

**Administration:** The fuel taxes are administered by the Tax Commissioner. The Motor Fuel Tax Section is part of the Sales and Special Taxes Division. A portion of the motor fuel tax collections are set aside in an operating fund for the administration of the tax. The remaining tax collections are transferred to the funds listed under the tax disbursement section.

**Tribal Taxes:** The Standing Rock Sioux Tribe passed an ordinance imposing a \$.21 per gallon motor vehicle fuel tax and a \$.21 per gallon special fuel tax. The ordinance has been in place since January 1, 1999. The State of North Dakota and the Office of State Tax Commissioner entered into an agreement to collect the tax for the Tribe.

## Sources of General Ad Valorem Property Taxes, Special Property Taxes and Special Assessments (Levied in 2004 - Payable in 2005)



Source: 2004 Property Tax Statistical Report compiled by the Office of State Tax Commissioner.

### Property Tax

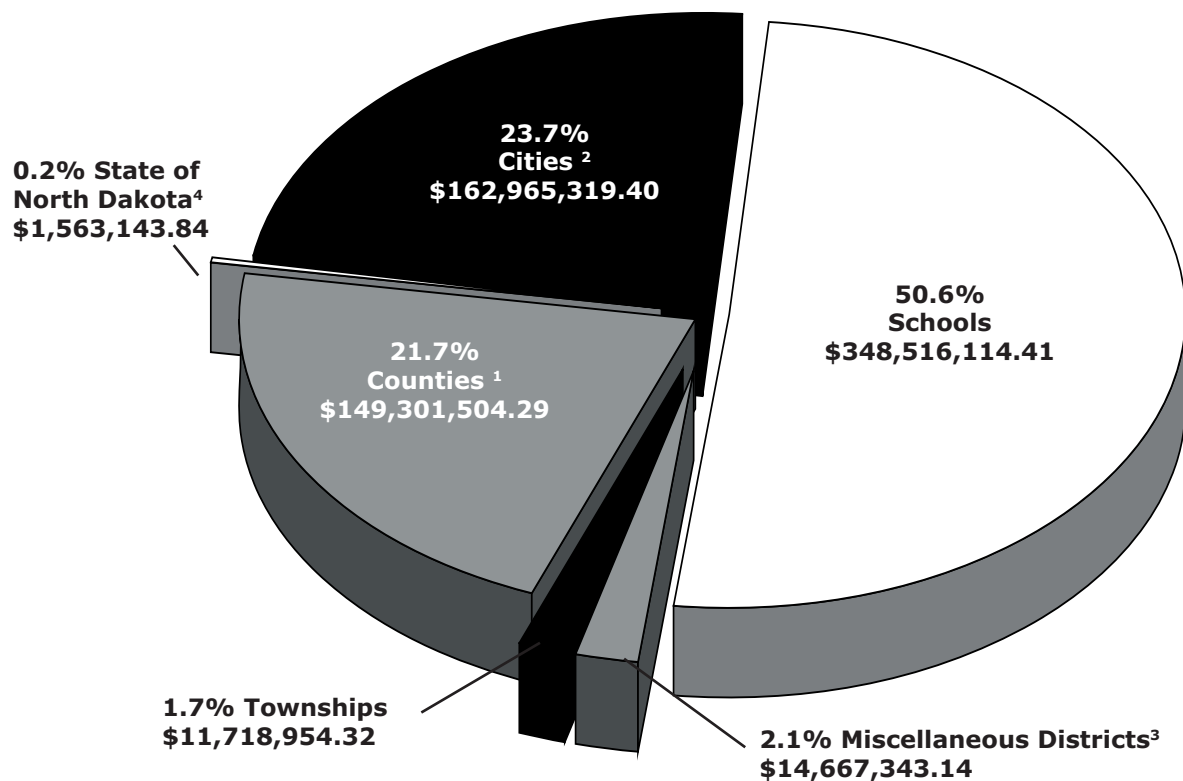
Real property owned by a corporation, partnership, individual, estate or trust is subject to a tax based on its valuation. The property tax, except the tax on the operating property of railroads and other utilities, is assessed locally. The property tax is collected and distributed by the county to the county, cities, townships, school districts, and other taxing districts. The North Dakota Century Code has provided that assessments be at true and full value and that assessed value be computed at 50% of true and full value. Also, true and full value of agricultural property is based upon productivity. Beginning with taxes levied in 1981 (payable in 1982) and thereafter, the assessed value is 50% of true and full value and taxable value is a percentage of assessed value according to the percentages established by the Legislature for the various classes of property as follows: residential property at 9%, commercial, railroad and airline property at 10% and agricultural property at 10%. Taxable value of centrally assessed wind turbine electric generators constructed before January 1, 2011, is 3%. Taxable value of centrally assessed wind turbine electric generators for which a purchased power agreement has been executed after April 30, 2005, and before January 1, 2006, and construction is begun after April 30, 2005, and before July 1, 2006, is 1½% of assessed value.

The assessed valuation of railroad and public utility property is centrally determined by the State Board of Equalization. Rural electric cooperatives and all telecommunications companies are subject to a gross receipts tax.

Instead of a property tax, large electrical generating plants are subject to a tax on installed capacity and electricity produced for sale through the coal conversion facilities privilege tax. Large cooperative-owned transmission lines are taxed on a per mile basis. The taxes on electrical production and large transmission lines are not included in the above.

## Distribution of General Ad Valorem Property Taxes Special Property Taxes and Special Assessments

(Levied in 2004 - Payable in 2005)



**Grand Total - \$688,732,379.40**

<sup>1</sup> Including County Park Districts, County Libraries, County Airports, Unorganized Townships, Water Resource and Joint Water Resource Districts.

<sup>2</sup> Including City Park Districts, City Special Assessments, and tax increments.

<sup>3</sup> Garrison Diversion, Rural Fire Districts, Southwest Water Authority, Soil Conservation Districts, Rural Ambulance Districts, Hospital District, Recreation Service Districts and All Special Assessments for Rural Districts.

<sup>4</sup> Constitutional one mill levy for the Medical Center at the University of North Dakota.

Source: 2004 Property Tax Statistical Report compiled by the Office of State Tax Commissioner.

## Property Tax Refunds & Credits For Senior Citizens and Persons with Permanent and Total Disabilities

<u>Tax Year</u>	<u>Number of Persons Receiving Renter's Refunds</u>	<u>Renter Refunds Paid</u>	<u>Number of Persons Receiving Homeowner's Credits</u>	<u>Homeowner's Credits Tax Amount</u>
1988	1,881	\$163,357	7,546	\$2,142,139
1989	1,657	149,666	7,307	2,158,650
1990	1,601	149,705	7,188	2,336,992
1991	1,582	151,600	7,029	2,303,437
1992	1,534	155,205	6,743	2,254,921
1993	1,563	166,739	6,576	2,191,385
1994	1,626	175,554	6,376	2,160,304
1995	1,590	177,782	6,095	2,379,016
1996	1,499	166,841	5,680	2,072,720
1997	1,482	165,060	5,278	1,979,210
1998	1,454	173,370	4,943	1,852,373
1999	1,508	190,211	4,457	1,817,938
2000	1,417	178,406	4,232	1,815,019
2001	1,329	173,754	4,341	1,768,001
2002	1,288	172,224	4,060	1,676,737
2003	1,335	185,807	3,922	1,658,942
2004	1,322	186,896	3,817	1,655,555

The North Dakota Legislature has provided a homestead property tax credit program since 1969. Persons 65 years of age or older, or totally and permanently disabled, who meet the requirements of the program are eligible to receive a credit to reduce property taxes on their home. Qualified renters receive a partial refund of their rent. Since 1977 the maximum income eligibility limit has been adjusted by the Legislature as follows: from \$8,000 to \$9,000 in 1979, to \$10,000 in 1981, to \$12,000 in 1985, to \$13,000 in 1989, to \$13,500 in 1995, to 14,000 in 1999, and to \$14,500 in 2005.

The credit for eligible homeowners is a reduction in the taxable value of the homestead as determined by the following schedule:

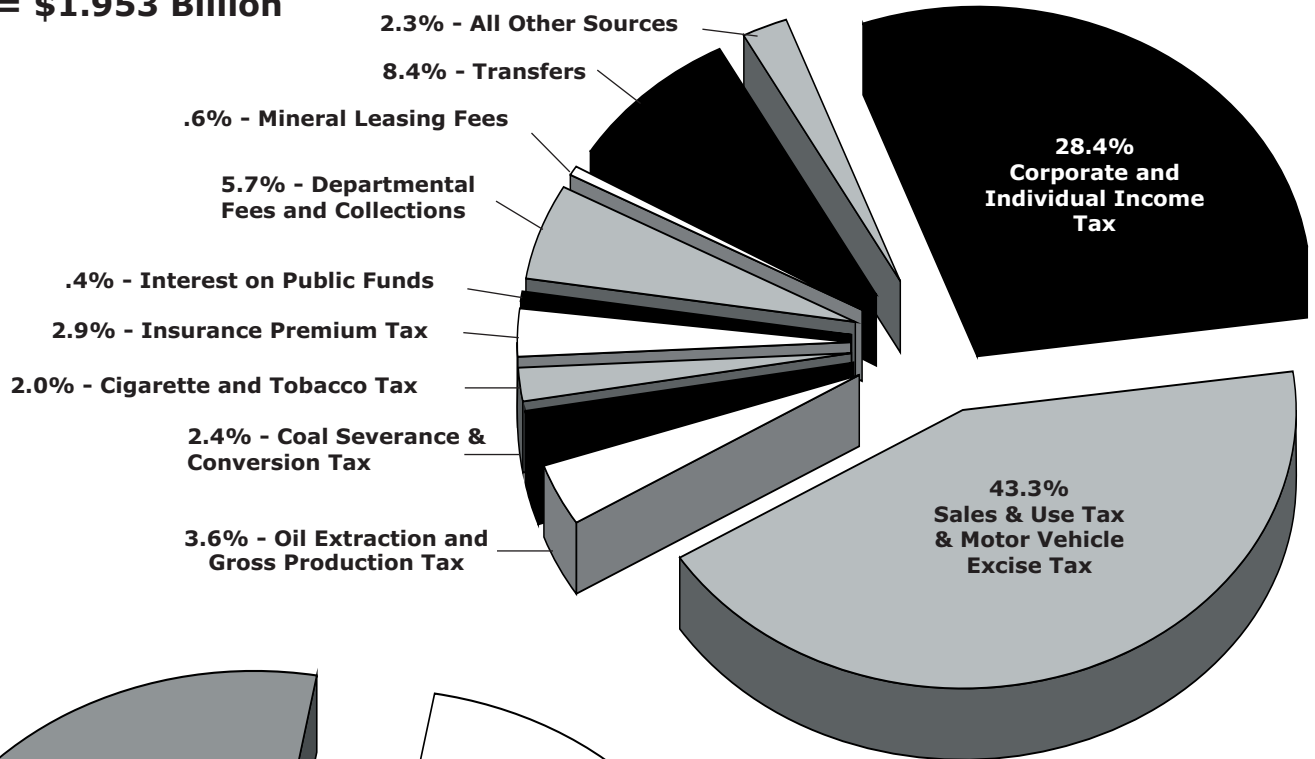
### For Taxes Levied in 2003 and 2004 (Payable in 2004 and 2005)

<u>Income of</u>	<u>Reduction</u>	<u>Maximum Reduction</u>
\$ 0 - \$ 8,000	100%	\$2,000
\$ 8,001 - \$ 9,500	80%	1,600
\$ 9,501 - \$11,000	60%	1,200
\$11,001 - \$12,500	40%	800
\$12,501 - \$14,000	20%	400

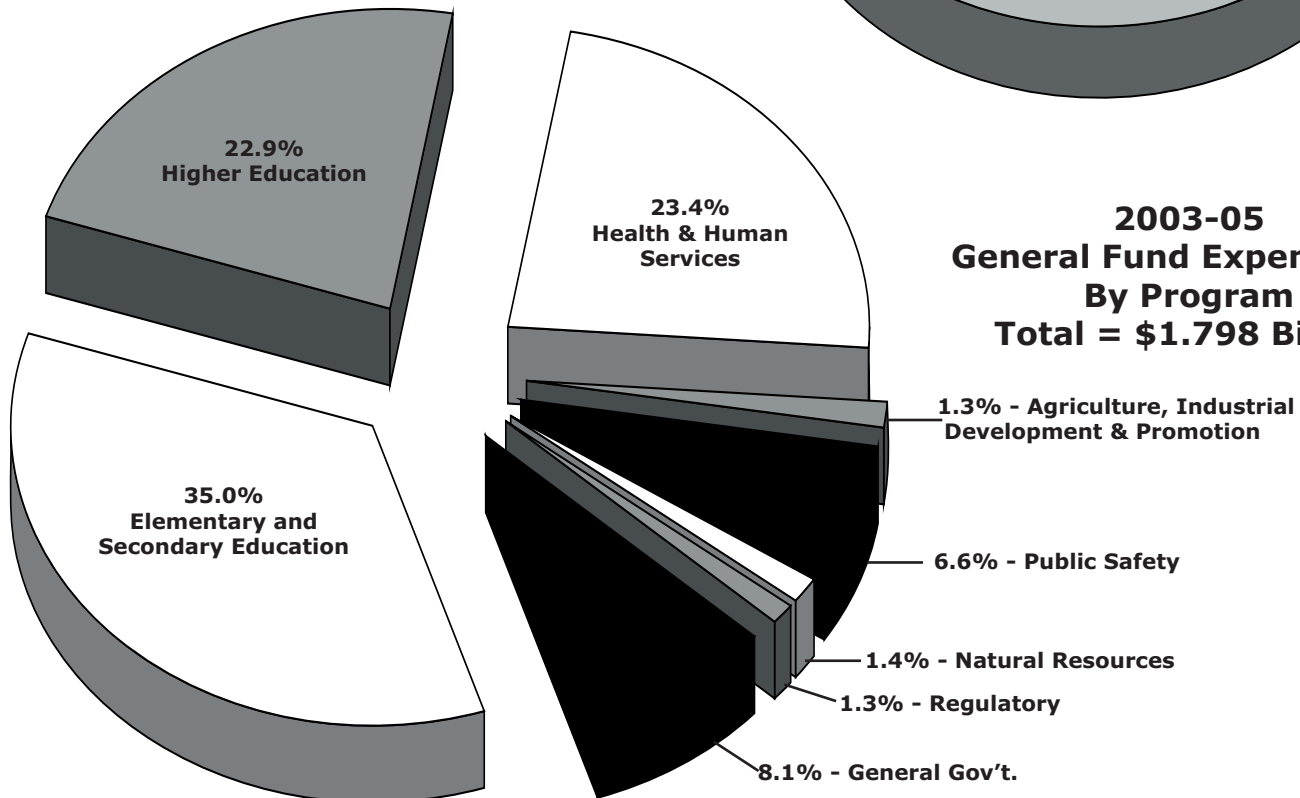
Eligible renters receive a refund of a portion of rent deemed to represent property taxes when 20% of their total annual rent exceeds 4% of their total annual income. Charges for such services as heat, light and furniture must be excluded when determining the annual rent payment for the purposes of renter's refund. The maximum refund allowable to a renter is \$240.

## State General Fund Revenues and Expenditures in the 2003-05 Biennium

### 2003-05 General Fund Revenue Sources Total = \$1.953 Billion



### 2003-05 General Fund Expenditures By Program Total = \$1.798 Billion



SOURCE: Office of Management and Budget, November 2005.

## Statement of Expenditures 2003 - 05 Biennium

Description	Commissioners Division	Legal Division	Fiscal Mgmt. Division	Sales & Special Taxes Division	Income & Oil Taxes Division	Property & Utility Taxes Division	Operations Division	TOTAL
Salaries and Wages								
FY 04	451,100.42	262,394.37	608,773.44	1,795,912.30	1,540,938.22	230,174.54	989,836.09	5,879,129.38
FY 05	461,703.83	268,659.52	656,739.31	1,784,627.69	1,594,361.36	237,231.55	991,193.00	5,994,516.26
Information Services								
FY 04	9,213.47	1,631.96	8,458.62	19,716.16	13,746.63	1,732.33	763,755.26	818,254.43
FY 05	8,155.64	1,627.26	9,253.69	20,662.49	13,505.51	1,828.37	605,541.51	660,574.47
Operating Expenses								
FY 04	61,747.84	36,930.91	61,614.81	184,405.62	337,137.14	7,677.60	283,696.79	973,210.71
FY 05	77,214.59	74,105.58	84,599.30	311,116.81	353,128.02	9,863.31	791,402.26	1,701,429.87
Equipment								
FY 04	.00	.00	.00	.00	.00	.00	.00	.00
FY 05	.00	.00	.00	.00	.00	.00	19,044.00	19,044.00
City Sales Administration								
FY 04				37,544.22				37,544.22
FY 05				12,455.78				12,455.78
Motor Fuels Federal Grant								
FY 04				175,869.80				175,869.80
FY 05				36,179.95				36,179.95
TOTAL								
FY 04	522,061.73	300,957.24	678,846.87	2,213,448.10	1,891,821.99	239,584.47	2,037,288.14	7,884,008.54
FY 05	547,074.06	344,392.36	750,592.30	2,165,042.72	1,960,994.89	248,923.23	2,407,180.77	8,424,200.33
<b>TOTAL 04-05</b>	<b>1,069,135.79</b>	<b>645,349.60</b>	<b>1,429,439.17</b>	<b>4,378,490.82</b>	<b>3,852,816.88</b>	<b>488,507.70</b>	<b>4,444,468.91</b>	<b>16,308,208.87</b>



# Resources Available From The Office of State Tax Commissioner

Many of the following publications are available on the department's web site at: [www.nd.gov/tax](http://www.nd.gov/tax)

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## Commissioner's Division

### Brochures

- Career Opportunities
- Tax Incentives for Business
- Tax Incentives for Wind, Solar, or Geothermal Devices

### Biennial Report of the Office of State Tax Commissioner

### Taxpayer Bill of Rights

### State and Local Taxes: An Overview and Comparative Guide (a.k.a. The Red Book)

### Business Reports, Forms and Licenses Required in the State of North Dakota

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## Income, Sales, and Special Taxes Division

### Guidelines

- Income Tax
- Income Withholding Tax
- Sales and Use Tax
- Local Option Taxes

### Income Withholding Tax Information for Employers

### Income Withholding Tax Tables

### Information at the Source Return Requirements and Procedures

### Newsletters

- Practitioners
- Oil and Gas
- Wholesale Alcohol
- Motor Fuels
- Sales and Use

### Notification of the Gas Tax Rate

### Sales and Use Tax Rate Charts

### Statistical Reports

- Sales and Use Tax
- Cigarette and Tobacco Tax

### Supplemental Tax Guide for U.S. Armed Forces

### Tax Law and Administrative Rules

- Alcohol Tax
- Aviation Fuel Tax
- Aviation Excise Tax
- Cig. & Tobacco Taxes
- Estate Tax
- Financial Inst. Tax
- Gross Receipts Tax
- Income Tax
- Motor Vehicle Fuel Tax
- Motor Veh. Excise Tax
- Oil and Gas Tax
- Sales and Use Tax
- Special Fuel Tax

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## Property Tax Division

### Brochures

- Certification of North Dakota Assessment Officials
- Homestead Credit for Senior Citizens or Disabled Persons
- Property Tax Exemption for Improvements to Residential or Commercial Buildings or Structures Guidelines

### Education Schedule

### Guidelines

### Levy Limitation Schedule

### Manuals

- Supervised Home Study Manual
- Assessor's Manual
- Tax Director's Teaching Manual

### Newsletter

### North Dakota Sales Ratio Report

### Proceedings of the State Board of Equalization

### Statistical Reports

### Tax Law and Administrative Rules

- Coal Conversion Tax
- Coal Severance Tax
- Property Tax
- Telecomm. Carrier Tax

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Many of these resources are available on our web site. Please visit us online at [www.nd.gov/tax](http://www.nd.gov/tax) or contact us at:

### Write:

**Office of State Tax Commissioner  
600 E. Boulevard Ave., Dept. 127  
Bismarck, ND 58505-0599**

### E-mail:

**[taxinfo@state.nd.us](mailto:taxinfo@state.nd.us)**

### Call:

**701-328-2770**

**Office of State Tax Commissioner**  
600 E Boulevard Avenue, Dept. 127  
Bismarck ND 58505-0599

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